

**CITY OF NEWPORT BEACH
PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS - 3300 NEWPORT BOULEVARD
THURSDAY, JANUARY 3, 2013
REGULAR MEETING – 6:30 p.m.**

MICHAEL TOERGE
Chair

BRADLEY HILLGREN
Vice Chair

FRED AMERI
Secretary

**TIM BROWN
KORY KRAMER
JAY MYERS
LARRY TUCKER**

Planning Commissioners are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

KIMBERLY BRANDT, Community Development Director

**BRENDA WISNESKI, Deputy Community
Development Director**

LEONIE MULVIHILL, Assistant City Attorney TONY BRINE, City Traffic Engineer

NOTICE TO THE PUBLIC

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. The agendas, minutes, and staff reports are available on the City's web site at: <http://www.newportbeachca.gov> and for public inspection in the Community Development Department, Planning Division located at 3300 Newport Boulevard, during normal business hours. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person. All testimony given before the Planning Commission is recorded.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or lbrown@newportbeachca.gov).

APPEAL PERIOD: Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

**NEWPORT BEACH PLANNING COMMISSION AGENDA
CITY COUNCIL CHAMBERS – 3300 NEWPORT BOULEVARD
THURSDAY, JANUARY 3, 2013
REGULAR MEETING – 6:30 p.m.**

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PUBLIC COMMENTS

Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

V. REQUEST FOR CONTINUANCES

VI. CONSENT ITEMS

ITEM NO. 1 MINUTES OF DECEMBER 20, 2012

Recommended Action: Approve and file

VII. PUBLIC HEARING ITEMS

Speakers must limit comments to three (3) minutes on all items. (Red light signifies when three (3) minutes are up; yellow light signifies that the speaker has one (1) minute left for summation.) Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.

If in the future, you wish to challenge in court any of the matters on this agenda for which a public hearing is to be conducted, you may be limited to raising only those issues, which you (or someone else) raised orally at the public hearing or in written correspondence received by the City at or before the hearing.

**ITEM NO. 2 Corporate Plaza PC Amendment (PA2012-145)
Site Location: 2 and 3 Corporate Plaza**

Summary:

An amendment to the Corporate Plaza Planned Community Development Plan and District Regulations to increase the permitted maximum square footage for medical/dental use at 3 Corporate Plaza by 200 square feet to a total of 3,300 square feet; and simultaneously decrease the maximum square footage of medical/dental use at 2 Corporate Plaza by 200 square feet to a total of 1,900 square feet.

CEQA Compliance:

This action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). Therefore, this activity is not subject to CEQA.

Recommended Action:

1. Conduct public hearing; and
2. Adopt Resolution No. ____ approving Planned Community Development Plan Amendment No. PD2012-003.

ITEM NO. 3 Wardy Residence (PA2012-140)
Site Location: 1111 Dolphin Terrace

Summary:

A request for approval of a Site Development Review to allow an increase in the boundaries of Development Area B for the purpose of the construction of a pool and retaining walls in Development Area C. The application also includes a request for a Modification Permit to allow a retaining wall over 8 feet in height from finished grade. These improvements are proposed in conjunction with the construction of a new single family residence.

CEQA Compliance:

The project is categorically exempt under Section 1530.3, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures).

Recommended Action:

1. Conduct public hearing; and
2. Adopt Resolution No. ____ approving Site Development Review No. SD2012-005 and Modification Permit No. MD2012-017.

ITEM NO. 4 Plaza Corona del Mar (PA2010-061)
Site Location: 3900 and 3928 East Coast Highway

Summary:

The applicant requests approval of a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared surface parking lot. The following approvals are requested or required in order to implement the project as proposed:

1. Site Development Review: to ensure compatibility with the site and surrounding land uses;
2. Conditional Use Permit: to allow parking for nonresidential uses in an off-site residential zoning district and to reduce the off-street parking to require two guest spaces for the six residential units where the Zoning Code requires three spaces;
3. Modification Permit: to allow a retaining wall up to 17 feet 2 inches in height, where the Zoning Code limits the height to 8 feet;
4. Tentative Tract Map: for residential condominium purposes and to consolidate five lots and portions of a vacated alley into two lots; and
5. Variance: for the residential structures to establish a 15-foot front setback and corresponding buildable area where a 20-foot setback is currently required.

The project was continued from the December 6, 2012, Planning Commission meeting to allow staff to re-notice the public hearing to include a potential waiver of one guest parking space for the residential component of the project and to include additional analysis related to the architectural design and construction of the project.

CEQA Compliance:

The project is categorically exempt under Section 15332, of the California Environmental Quality Act (CEQA) Guidelines - Class 32 (In-Fill Development).

Recommended Action:

1. Conduct public hearing; and
2. Adopt Resolution No. ____ approving Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-007.

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 MOTION FOR RECONSIDERATION

ITEM NO. 7 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

**ITEM NO. 8 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS
WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR
REPORT.**

ITEM NO. 9 REQUESTS FOR EXCUSED ABSENCES

IX. ADJOURNMENT

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, December 20, 2012
REGULAR MEETING
1:30 p.m.

I. **CALL TO ORDER** – The meeting was called to order at 1:30 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Brown

III. **ROLL CALL**

PRESENT: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker

ABSENT (Excused): None

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Rosalinh Ung, Associate Planner; James W. Campbell, Principal Planner; Ruby Garciamay, Community Development Department Assistant

IV. **PUBLIC COMMENTS** - None

V. **REQUEST FOR CONTINUANCES** - None

VI. **CONSENT ITEMS**

ITEM NO. 1 MINUTES OF DECEMBER 6, 2012

Recommended Action: Approve and file

Chair Toerge noted his corrections to the minutes as well as those submitted by Jim Mosher, a member of the public.

Interested parties were invited to address the Commission on this item. There was no response and public comments for this item were closed.

Motion made by Commissioner Brown and seconded by Commissioner Tucker and carried 6 – 0-1, to approve the minutes of the Planning Commission meeting of the December 6, 2012, Regular meeting, as amended.

AYES: Brown, Hillgren, Kramer, Myers, Toerge, and Tucker

NOES: None

ABSTENTIONS: Ameri

ABSENT (Excused): None

VII. **PUBLIC HEARING ITEMS**

ITEM NO. 2 Uptown Newport (PA2011-134)

**Site Location: 4311-4321 Jamboree Road, North side of Jamboree Road
between Birch Street and Fairchild Road**

Chair Toerge read the project's title, opened the public hearing, and called for the staff report.

Principal Planner Jim Campbell presented details of the report including background and consideration of the Environmental Impact Report (EIR) at a previous meeting and new information and documentation for review at this time. He addressed the regulatory documents including the Planned Community Development Plan Amendment, Planned Community Development Plan Adoption, Traffic Study, Tentative Tract Map, Affordable Housing Implementation Plan, and the Development Agreement. Mr. Campbell addressed the zoning documents, phasing plans, design guidelines and referenced comments received from Commissioner Tucker related to the various components. He noted that the design guidelines are flexible and addressed revised conditions of approval relative to the Tentative Tract Map and Affordable Housing Implementation Plan, and he highlighted the recent revisions.

Mr. Campbell addressed connectivity of land uses, dedication and improvement of streets, proposed new streets for increased public access, consistency with the General Plan, and details of the revised Phase 1, pedestrian connections, the existing bicycle path, and the possibility of additional pedestrian connections. .

Discussion followed regarding of the need of vehicle connections to Birch Street and Von Karman Avenue, the need to revise the grading plans, and adding same as part of the conditions of approval.

Chair Toerge reported receiving several letters from parties with interest in Koll Center, which expressed concern with rights to the common areas, and their lack of desire to have any connectivity or roads through Koll Center.

Discussion followed regarding alternate plans should Koll withdraw their development application. Areas of concern include vehicle access and pedestrian connectivity, and access for emergency vehicles only, and possible considerations for off-site improvements.

Assistant City Attorney Mulvihill addressed the Birch Street access and the access envisioned by the Integrated Conceptual Development Plan (ICDP).

Ms. Mulvihill reported that the applicant has presented a plan that allows public egress/ingress over the Birch Street driveway, and that it is incumbent upon the applicant to make sure that they have the legal authority to do so. The issue will need to be resolved by the applicable private parties and if the applicant cannot resolve that, he will have to redesign the project. As to other access through the Koll property, the ICDP covers a large area and it is the practice of the City of doing it parcel-by-parcel. Staff did not see a nexus to support a condition at this time

Chair Toerge noted that development entitlements are not a right, but rather a privilege. The City needs to demand it if the applicant will not volunteer it. He added that at some point in time, Koll will have some requirements of the applicant which would be enhanced if they were to cooperate at this time.

Assistant City Attorney Mulvihill noted that the decision will be made by the Planning Commission. She felt that there is not sufficient support to require the acquisition of outside properties.

Discussion followed regarding the original zoning of the property.

Commissioner Ameri indicated that he understood that the project can be developed without any limitations with regard to the connection and is "stand-alone." He felt that off-site improvements are required when there is a project impact. He expressed concern with requiring the applicant to be obligated to provide an improvement when it is not required by the project's design and scope.

Community Development Director Brandt stated that staff looks at the vision of the General Plan when considering a phased project. Each phase must be considered with the hope that subsequent phases will occur, but consideration must also be given to the "what ifs". She stressed the importance of looking at the phasing and the ultimate goal of the General Plan but also the need to consider uncontrollable factors that may affect the General Plan's implementation. Ms. Brandt noted that it is very important to ensure that each phase is "stand-alone."

Commissioner Tucker felt the proposal is consistent with his vision of the project. He spoke in opposition to offsite conditions noting that they are often for public improvements or where none of the land has been developed. He suggested a new condition indicating that "prior to issuance of the first building permit in phase 2, evidence of the right to use the Birch Street easement, acceptable to the City Attorney, shall be provided. He added that the plan is dependent upon that occurring.

Chair Toerge suggested amending the condition to indicate "public use" of the access and Commissioner Tucker agreed with the change.

Mr. Campbell reported the amendment of Condition 15 requiring a change to the phasing document where at a future date, when connections go through; there may be additional improvements after the initial construction where the applicant will be obligated to complete any missing links to connections. Koll may make improvements before completion of phase 2 and the condition will ensure that the connections are made at the appropriate times.

In response to Vice Chair Hillgren's inquiry, Mr. Campbell reported that the conditions are binding upon the applicant/property owner and if there is a successor in interest, the obligation would be transferred to them and would be part of the phasing plan.

Ms. Brandt reported there are no CC&Rs at this time but that they could be drafted. She noted the importance to remember that this is the "umbrella" regulatory document and noted that there will be a Master Site Plan review process and the subsequent individual site development review; all of which will have conditions of approval, and there will be a better idea of how the phasing is proceeding in relationship to adjacent properties.

Discussion followed regarding the possibility of future development agreements.

Mr. Campbell presented staff's recommendations.

Chair Toerge invited those interested in addressing the Commission on this item, to do so at this time.

William Shophoff, Chairman and CEO of the Shophoff Group, addressed the grading, noted that it has been added to the text and that his company is agreeable to it. Regarding roads versus storm drains, he reported that they have the right to do the storm drains by existing easements. He acknowledged the efforts, work and time expended on this item and comments made by the Commission, staff, and the public. All of the comments to the planning documents are agreeable with minor issues including the Planned Community Document regarding adding a loading zone and he reported that there is a loading zone nearby and is in a more appropriate location and asked that be reconsidered. Regarding landscape guidelines, he addressed the provision of a landscape design that is flexible for a variety of uses, he proposed language to "provide a landscape design that is consistent with the urban character and theme of the Uptown Newport Planned Community."

Mr. Shophoff reported on the Von Karman Avenue access issue noting that the easement allows for emergency ingress and egress and also allows for non-emergency access. He felt there are existing issues with the location of the easement and that they would prefer to defer and study at a later date.

He addressed multiple drive aisles, the parking structure, and that the area is not the best location for unrestricted public egress/ingress at this time.

Discussion followed regarding location of an existing easement for interim access and addressed perimeter conditions, existing conditions, and proposed new edge conditions and fencing.

Mr. Shophoff addressed comments regarding building setbacks and presented three alternatives for consideration by the Commission. Regarding architectural enhancements he noted new language to be added to the design guidelines: "Buildings adjacent to exterior property lines shall feature 'four-sided' architecture whereby continuity of the design character is extended to the front, side, and rear elevations." He addressed ways of bringing additional urban activity to the central areas and commented on elements of the design guidelines. He addressed the City's right to review CC&Rs and indicated willingness to work with adjacent property owners. He noted the attendance of his design team.

Commissioner Tucker acknowledged that the applicant has been very responsive and expressed his appreciation.

Roger Stone expressed concerns that the EIR allows for approximately 8,000 cars to enter and leave the project on a daily basis based upon the residents that will live there. He felt that it will negatively impact traffic during rush hour.

Chair Toerge noted that the traffic study has been well-vetted and the impacts and mitigation measures are addressed in the EIR.

Mr. Stone wondered if affordable housing is the same as subsidized housing and stated there may be increased crime potential in the area. He noted that he has a solar project on his building and wondered if the height of the proposed buildings will interfere with his system.

Jim Hasty, on behalf of Myer Properties, expressed concerns with the proposed residential units and noted amenities needed that do not currently exist. He reported that he understands the motivation for the project in terms of meeting State requirements for providing affordable housing and generating revenue but expressed concerns with the politics that drive the project. Mr. Hasty addressed a direct correlation between the density of the project and negative impacts on adjacent properties including shade and shadow issues, traffic and mitigation efforts. He stated that the properties will experience an increase on common-area expenses and noted they have made a long-term commitment to the City. He noted unanimous opposition to the project.

Sandy Throop, Corner Stone Real Estate Advisors, spoke in opposition to the project. He felt there is too much development and a lack of sensitivity to existing surrounding uses. He stated the need to complement the design objectives with the existing project and felt that the edge conditions are insensitive to the adjoining uses. He felt that the project will have a negative economic impact to existing properties and suggested that the building heights should be lowered along the entire border along Jamboree Road. He addressed connections and increased uses to common areas, subsequently increasing costs without any consideration and reimbursement to existing properties.

Discussion followed regarding impacts by the proposed Koll project, increased traffic, massing, edge conditions, unknown benefits of retail uses, orientation of the structures, blocked views, and mitigation through increased setbacks.

Mr. Throop felt that the proposed buildings will have an effect on the desirability of leasing suites in his building.

Brian Adams requested the addition of a new condition which prohibits construction traffic during phases 1 and 2 from using the Birch Street easement. He expressed concern with the proposed density in buildable areas and the calculations used for determining density. He felt that the applicant has not addressed their request for increased setbacks and encouraged the Commission to consider decreasing the density, the building heights, and increasing the setbacks.

John Adams, President of the Courthouse Plaza Association, noted that there have been a significant number of real estate professionals commenting on this project and none have commented in its support. He felt that the entire issue comes down to the density of the proposed project and suggested reducing the density, lowering the perimeter heights, mitigating some of the traffic issues, and increasing setbacks. He requested the addition of a condition related to prohibiting construction traffic during phases 1 and 2 off Birch Street.

Whitney Allen, an airport area employee, spoke in opposition to the proposed project as currently planned. She stated that she is an advocate for affordable housing and supports a well-planned, sustainable project that is mutually beneficial to the region. She expressed concerns with environmental and societal issues related to the project and addressed thresholds for air quality and noise levels. Ms. Allen felt that the City should be looking at creating jobs in the area and felt that as proposed, the project would be detrimental to the City's economy.

Emery Ledger addressed the easement and reported that the area is private property and felt that the burden should be shifted to the developer, Mr. Shophoff, to close the easement until he obtains a court order to use it for his intended purpose. He addressed the need to protect the property rights of the existing development.

Bruce McDonald addressed consistency with the General Plan and felt that the Commission is trying to consider a project contingent upon what may or may not happen in the future. He encouraged the Commission to consider the project on its own. He reported that the present cul-de-sacs are private and permanent and wondered if the standards are correctly met. Mr. McDonald addressed the easement to Birch Street and felt that the Commission is considering building half a project without the guarantee that the second half will ever be built. He felt that the traffic study should not rely on access to relieve the congestion and wondered if access will be ever allowed to Von Karman. Mr. McDonald wondered how the Commission could place an off-site condition on an adjacent property owner. He wondered if the intentions of the General Plan are being met and addressed public parks but felt that the traffic study has not taken into account public use of those parks. He encouraged the Commission to consider building massing.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Assistant City Attorney Mulvihill noted that the City Attorney's office was unaware of the existing easement and changed her opinion as to the issue of whether or not requiring the acquisition of right-of-way was supportable. She stated this easement is different from the Birch Street easement as far as implementation of the roadway depicted on the ICDP. She stated that there is nothing as to the applicant's ability to guarantee or maintain any particular connection. The easement is not consistent with what is depicted on the ICDP. She expressed concerns that the easement is currently not as depicted on the ICDP and therefore, not conditioned.

Chair Toerge commented that the configuration of the ICDP is similar to what is on the ground and the grantor has voluntarily redirected the easement into a location that is not shown in the ICDP.

Commissioner Tucker suggested addressing issues raised during the public hearing.

Chair Toerge noted that the project is not subsidized housing, but rather affordable housing with an appropriate income limit assigned.

Regarding the density calculation, Mr. Campbell explained that there is sufficient acreage to support the proposed density.

Vice Chair Hillgren addressed net acreage and Mr. Campbell explained that the lettered lots are paseos and are included in the acreage. He explained that sidewalks and street parcels not included in the density calculations.

Commissioner Ameri commented on net acreage and net buildable areas and addressed the distinctions between the two.

Mr. Campbell stated that staff can work with Mr. Adams to ensure clarity in the calculations. He also agreed with adding a restriction relative to prohibiting construction traffic during phases 1 and 2 along the Birch Street access.

In response to an inquiry from Commissioner Tucker, City Traffic Engineer Tony Brine stated that he is comfortable that the traffic study was conducted according to TPO and CEQA standards. He addressed the length of the cul-de-sacs and stated he was not aware of a City code that sets the length of cul-de-sacs.

Commissioner Ameri indicated the standard would be 1,000 feet.

Commissioner Tucker commented on property rights and noted that they went through a thorough vetting process and that the density is allowed by the Code. He indicated that the project fits and what the applicant has requested is allowed. He noted that the project was driven by the need for affordable housing in the City and that this is an allowed land use within the City, and the General Plan requires a Development Agreement. Commissioner Tucker noted that the Commission does not have the ability to impose a mitigation on something that has not found to be a significant impact.

Chair Toerge addressed zoning and use and that the public voted to allow this kind of development if it complies with all of the requirements of the General Plan and the Zoning Code.

Brief discussion followed regarding density.

Ms. Brandt reported that the Koll Center Community Development Plan Amendment is included on page 72 of the agenda packet. She added that it is an amendment which deletes the subject property from the zoning regulations so that a new zoning document can be created for it.

A straw vote was conducted regarding the Koll Center Newport Planned Community Text amendment and it was considered acceptable, unanimously.

Regarding the Uptown Newport Planned Community Development Plan, Ms. Brandt reported it includes three separate components.

Commissioner Tucker commented on page 1 of the Land Uses Development Standards & Procedures. Cora Newman, representing the applicant, referenced written comments provided under separate cover for consideration by the Commission.

Chair Toerge commented on a number of typographical errors on page 7, addressed existing industrial uses, and provided suggestions for alternative language.

In response to Chair Toerge's inquiry, Mr. Campbell noted that the draft text allows the existing land uses to continue. The industrial use standards have been excerpted from the existing Koll Center Planned Community Text. Ms. Brandt further clarified that sections I and II are subsets of Section 2.1.1 Existing Uses and it indicates that these are how the existing light industrial uses shall be permitted until the sunset date of March 12, 2027.

Mr. Campbell added that the provisions are reflective of the existing Koll PC text and that staff did not attempt to change or edit them in any way.

Vice Chair Hillgren addressed Transfer of Development Rights.

Discussion followed regarding the area requiring a certain amount of critical mass to be in place and transferring units out is contrary to the requirements of the General Plan and the need to require a minimum of 30 units per acre. It was noted that the General Plan provides a range from 30 units to 50 units per acre.

Ensuing discussion followed regarding transferring units in, but not out. Ms. Brandt noted that the transfer of development rights is a discretionary review which would require a General Plan consistency finding.

Mr. Shophoff agreed with eliminating the right to transfer units in and noted that the language came out of the General Plan and that they would agree to the right to not transfer out more than 20 units per acre.

In response to Chair Toerge's inquiry, Mr. Campbell suggested appropriate language to address the issue and reported that staff will work on the matter.

Chair Toerge addressed limiting the sale of animals and services.

Commissioner Tucker commented on defining the terms "adult daycare" and "daycare", animal sales and services, allowing fast food with late hours on the Jamboree Road frontage only, and implementation of the AHIP.

Vice Chair Hillgren commented on issues of concentration related to adult daycare.

Commissioner Myers wondered if this is limited to the retail space.

Ms. Brandt reported there are different types of licensed State facilities that allow six or fewer residents and the State has preempted local regulations when they are licensed facilities. She added that child daycare is an in-home use.

Mr. Campbell added that both the small child daycare and small adult daycare is intended for residential occupancies, subject to licensing.

Vice Chair Hillgren expressed concerns regarding limits on child daycare facilities and the possibility of setting similar limitations on adult daycare facilities.

Assistant City Attorney Mulvihill addressed current State laws regarding the matter noting that small daycare facilities must be treated as residential use. The large adult daycare would be within a congregate care home or a convalescent facility and that is when the City could regulate adult care greater than six.

Mr. Campbell referenced footnote number 3 relative to child daycare and stated that the footnote should relate to the daycare general category instead.

Commissioner Tucker requested consensus to delete "animal sales and services" and allow grooming and veterinary services but no boarding of animals.

CONSENSUS: Members of the Commission concurred to delete "animal sales and services" and to allow grooming and veterinary services but no boarding of animals.

Mr. Shophoff requested limiting fast food with late hours to the Fairchild entrance.

Discussion followed regarding addressing the issue of fast food with late hours through a minor use permit.

Vice Chair Hillgren addressed the issue of setbacks and building heights and the various options offered. He indicated his preference towards option C which allows for increased heights along Jamboree and the 100-foot height limit adjacent to properties on Birch Street and allowing a 55-foot height limit along the first row of units on the western boundary to allow better integration with adjacent properties.

Discussion followed regarding the differences between the various options.

In response to Commissioner Kramer's inquiry regarding a 55- foot height limit in the center portion of the project, Mr. Campbell reported that the lower the height is intended to allow more sunshine to the park.

Vice Chair Hillgren reported that the park to the south would be in the sun and stated he agreed with having increased height along the park since one park would be in the sun and the other would have increased shade.

Commissioner Ameri commended the applicant for incorporating his previous suggestions and stated that he would accept option C because it seems logical to have more density along the park to allow open areas along the buildings. He indicated he would like other areas converted to high rises between the parks and suggested increasing the building setbacks to 200 feet and converting that area to a high rise.

Chair Toerge agreed with the concept of bringing the high rises to the center of the project. He did not agree with increasing setbacks to 200 feet and suggested option A with the opportunity to include high rise on the parcel between the parks.

Commissioner Ameri indicated he would like to see more concentration of residential and more open space to allow for increased amenities and facilities.

Commissioner Tucker stated that he would support option A with a high rise between the two parks.

Vice Chair Hillgren agreed but suggested allowing a 55-foot row along the western edge of the project, with the units along the east at 75 feet.

Commissioner Brown indicated that he supports the lower heights along the perimeter.

Commissioner Myers agreed with Commission Brown and stated that he would encourage increased setbacks along Jamboree Road.

Commissioner Kramer suggested making the adjacent building also at a 55-foot height.

Mr. Shophoff clarified that the first row of units would be at 55 feet with the second row stepping to 75 feet and the high rises requiring a 100-foot setback.

Discussion followed regarding parcels becoming high rise zones and the need to specify dimensions.

Mr. Shophoff stated support for a 50-foot setback along the property line with no more than a 55-foot height limit along the edge. He noted there would be a "wedding cake" look as it moves towards the high rise with a shift in intensity.

Mr. Campbell explained the basis for calculating the setbacks and stated that staff could work with the applicant to determine the height and setback standards.

Vice Chair Hillgren addressed the revised exhibits relative to activating ground floor building frontage and it was noted that the issue is addressed in the Design Guidelines. He commented on the proposed size of the balconies and felt that the stated 60 square foot minimum is too large. He felt that there should not be a minimum square footage for the balconies.

Ms. Brandt suggested providing a minimum dimension and noted the intent to provide a usable balcony area.

Discussion followed regarding the possibility of having a mix of balcony sizes, balconies not being required but provided as an option, noise issues, and the possibility of requiring no balconies.

CONSENSUS: Members of the Commission concurred to delete the sentence regarding a minimum size for balconies.

Chair Toerge commented on the northerly cul-de-sac grading.

Mr. Campbell reported that the phasing document shows a conceptual grading plan and suggested discussing that issue at a subsequent Master Site Plan review.

Regarding page 20, Chair Toerge wondered regarding requiring no public hearing regarding the site development application.

Mr. Campbell clarified that no public hearing notices would be sent out to the area.

Ms. Mulvihill reported that it would be up to the Commission to decide if it should be a noticed public hearing and that the item will be presented to the Planning Commission.

Ms. Brandt reported that two discretionary review processes are proposed noting that the next step is a Master Site Plan review which will be a noticed public hearing with all of the City's standard procedures for more definitive information and conditions of approval. The next step is a Site Development review and the approval for that is proposed to be delegated to the Community Development Director which would not require a public hearing.

Chair Toerge suggested removal of the word "other" under page 20 number 1. He addressed typographical errors needing correction.

Commissioner Tucker addressed neighborhood parks regarding public and private uses.

Ms. Brandt suggested that it could simply indicate public use.

Commissioner Tucker addressed the street definition noting that some may be private, and Ms. Brandt suggested addition that these streets are available for public access.

Discussion followed regarding a master association and its membership. It was noted that in general, the City does not regulate them but would make sure that there are CC&Rs in place to ensure there is a functioning management association that is capable of meeting obligations including remedies should the association not meet its obligations.

Commissioner Tucker noted there is a provision added to the conditions of approval that make all of the maintenance duties in the CC&Rs enforceable by the City.

Chair Toerge addressed the Land Uses Development Standards and Procedures and noted that the applicant has done an enormous amount of work to address many of the Planning Commission's concerns. He stated that the proposed community is a "bicycle unfriendly" place and there are no bike lanes delineated on the streets. He expressed concerns with the lack of bicycle accessibility.

A straw vote was taken regarding support of the document with the changes discussed and Vice Chair Hillgren and Commissioners Ameri, Brown and Tucker indicated acceptance of the document.

Chair Toerge introduced the Phasing Plan and commented regarding the ceasing of the use of the Tower Jazz facility.

Assistant City Attorney Mulvihill reported that if it were not to occur, it would be a breach of the Development Agreement. She added that the City Council would have the right to extend the Development Agreement beyond the stated 15 years and noted that there are options to extend it.

Mr. Campbell reported that the Land Use Development document has the provision to modify uses ceasing at that point.

Chair Toerge addressed demolition of the liquid ammonia tank and wondered if the distance for relocation could be increased.

Mr. Campbell reported that 200 feet is the minimum distance.

Mr. Shophoff reported that the location being evaluated exceeds the 200 foot distance and would be located in the rear of the TowerJazz facility.

Chair Toerge proposed no change to the item. He addressed the grade differential issue and requested the addition of a condition addressing the matter.

Vice Chair Hillgren inquired regarding drainage and water quality and potential impacts to storm runoffs on adjacent properties. He felt that the proposed would improve water quality.

Chair Toerge commented regarding page 13 relative to the northerly access into the site off Jamboree Road allows a left-hand turn and felt that it was a good addition.

Regarding the grade differential, Mr. Campbell indicated that it is anticipated to be a five-foot grade differential.

Chair Toerge indicated he wants to make sure that it is workable.

Commissioner Tucker commented on the roadway and the possibility of a pedestrian gate with steps down.

Mr. Campbell stated there may be a need to place ramps in that location and addressed edge conditions between phase 1 and 2.

Vice Chair Hillgren questioned the need for a significant amount of fencing in the area and he suggested requiring less fencing in order to make the area more inviting.

Mr. Campbell indicated that the matter may be addressed within the Design Guidelines.

Chair Toerge addressed the "emergency only" easement leading to Von Karman Avenue and felt it may have similar rights as the Birch Street easement and noted no requirements to use that easement were placed on phase 1.

Discussion followed regarding what would be provided by the connection.

Chair Toerge felt that it provides a secondary access in and out of the site to Von Karman Avenue, to the airport, and areas west. He commented on the importance of circulation, integration, cohesiveness, and the opportunity for vehicle access flowing west.

Commissioner Ameri commented on the differences between the two easements.

Commissioner Tucker felt that is the wrong place to locate access to Von Karman because it would be too close to MacArthur Boulevard.

Chair Toerge noted that his proposal is that phase 1 includes a complete public access to Von Karman Avenue, not simply an emergency access.

A straw vote on Chair Toerge's proposal failed with 5 noes and 2 ayes.

Mr. Campbell address modification to condition number 15 adding language to include additional provisions as listed in the presentation to ensure accommodation of future connections at the appropriate time.

Discussion followed regarding amending the phasing plan rather than including a condition, and Mr. Campbell agreed to include the language in the phasing plan and delete condition 15.

Commissioner Tucker suggested requiring the applicant to allow Koll to complete the street connection.

Discussion ensued, and Brian Rupp representing the Shophoff Group stated that as a condition of approval, the applicant is obligated to offer dedication for their streets up to the property boundary.

Assistant City Attorney Mulvihill suggested adding a condition requiring the applicant to provide access rights for the purposes of constructing the access connections. It was noted that it only needs to be in the CC&R document.

A straw vote of the Phasing Plan resulted in approval of the document with changes discussed above.

Chair Toerge introduced the Design Guidelines for consideration.

Commissioner Tucker felt that there is no particular architectural theme and suggested developing an understandable theme or deciding that each building should be reviewed by the Planning Commission.

Commissioner Brown agreed and wondered what "enhanced" architecture means. He felt that there is a need to define a theme.

Chair Toerge addressed changes made in the document, bicycle access, and the vision statement.

Discussion followed regarding the retail center (core).

Vice Chair Hillgren referenced page 7 relative to images depicted and felt that the images should be consistent with the theme.

Commissioner Ameri felt that the images are helpful in illustrating what the applicant intends to do.

Vice Chair Hillgren commented on better describing the retail core suggested. He reported visiting the area noting that it has an appropriate amount of retail that serves the community well. He felt that if the appropriate uses are included and the sidewalk is widened, it would create a "town" in Uptown Newport and an inviting environment for the public. He suggested incorporating other retail uses in other than the L-shaped area.

Chair Toerge reported that the current plan shows the retail further south on the building that fronts Jamboree Road.

Commissioner Ameri stated that he doesn't get a sense of community within the project and felt there needs to be a core.

Commissioner Myers felt that the sizes of the proposed parks are inadequate and felt that to create a usable friendly environment, more than two acres of parks would be required.

Mr. Campbell noted that the General Plan requires a minimum of two acres but that doesn't mean that the parks cannot be larger.

Commissioner Brown also expressed concerns regarding the size of the proposed parks.

Chair Toerge agreed that the retail is located where there is more off-site visibility but not necessarily placed where it will best serve the community. He agreed with a lack of a sense of community center.

Commissioner Tucker indicated that he is agreeable with the scale of the parks and felt that they are consistent with the General Plan. He commented on the location of retail uses and felt that the plans are acceptable.

Commissioner Kramer indicated it all depends on the market and that there is always an opportunity that higher densities will create more ground area for additional parks.

Commissioner Myers felt that the project will attract many young families and that it is so isolated that the demand for more park space will be greater rather than smaller. He felt that the parks, as proposed, are not adequate.

Brian Rupp indicated that a large amount of private recreation amenities are planned as part of every building. They will have private pools, outdoor courtyard areas, seating areas, club houses, theaters and business centers, in addition to the parks. He believes the parks are of adequate size and

addressed the revenues generated in park fees. He reported that activating the spine street in the center will help to create a town center environment and addressed graphics provided to the Commission.

In response to Commissioner Tucker's inquiry, Mr. Shophoff addressed construction cost differentials between the various heights of the buildings. He reported that an urban environment will not have an active sports park.

Commissioner Brown questioned whether the parks are large enough for any organized activities.

Chair Toerge addressed angle parking on public streets.

Mr. Brine replied that is allowed in the City and originally he was concerned with vehicles stacking onto Jamboree Road.

Discussion followed regarding the lack of bicycle accessibility, architectural themes, and designs. Commissioner Kramer felt that some of the guidelines are confusing and need to be cleaned up. He felt that the main concern is quality of construction and design and that there needs to be formal parameters requiring all buildings to have certain massing, incorporating traditional forms of architecture, and eliminating a bias towards contemporary architecture.

Mr. Shophoff noted that one option would be to bring the architecture back to the Planning Commission as part of the Master Site Plan process. Rather than bringing back individual buildings, he suggested returning to the Commission with an increased level of details and understanding what the quality and materials will be.

Commissioner Kramer expressed concern regarding making sure that the language is clear and specific enough to guide future approvals.

Chair Toerge agreed with the need for specific language relative to the architecture.

Discussion followed regarding the timeline for subsequent project approvals, and Mr. Shophoff indicated he expected to be working on this issue immediately.

Commissioner Tucker noted that final maps will drive subsequent approvals and felt that all other documents will return at the same time.

Commissioner Hillgren suggested making Chapter 3 subject to the Master Site Plan approval which will return to the Commission.

In response to Chair Toerge's inquiry, Ms. Brandt noted that specific sections could be carved out because this is a multi-step project and the architectural guidelines are a sub-set of the overall plan. The Commission could forward on their recommendations with a component trailing

Commissioner Ameri suggested that there is sufficient information to vote on the entire project at this time. He disagreed with carving out little pieces and suggested approving the project and place a condition that prior to the time the matter goes before Council, the applicant would have a presentation that would satisfy the Commission with regard to the architectural aspects of the project.

Chair Toerge indicated that he wants to be respectful of each Commissioner's opinions.

Mr. Shophoff presented various alternatives and indicated intentions to move forward with the project asking the Commission to approve the project except for the Design Guidelines.

In response to Commissioner Tucker's inquiry, Ms. Mulvihill indicated that to carve out the Design Guidelines in its entirety, would compromise all of the other project-related findings. She agreed with Ms. Brandt's suggestions to recommend the project except for the architectural style.

Ms. Brandt expressed concerns regarding trailing an entire document or documents because it is an integrated project and the findings are all interrelated. She noted that what Ms. Mulvihill referenced was the architectural theme which doesn't affect height, massing or placement. She addressed the Master Site Development Plan review process and recommended including review of the architecture design and materials as part of the Master Plan review.

Commissioner Tucker expressed concerns that documents would have already been approved without a theme element to guide the future review.

RECESS/RECONVENE

Chair Toerge called for a recess at 5:30 p.m. The assembly reconvened at 5:40 p.m. with all Members present.

Mr. Shophoff presented suggestions including adding language that the architectural design will come back as part of the Master Plan review process and eliminate the rest of the section in Chapter 3. He noted that those are not things that will be part of mitigation measures.

Ms. Brandt clarified Mr. Shophoff's recommendations. She reported that the Airport Land Use Commission overrule process is scheduled for City Council consideration on January 8, 2013. She noted there is one more Planning Commission meeting on January 3, 2013, prior to the City Council meeting. If it is the Planning Commission's desire, to take a straw vote in terms of the overall position on the project, it could forward on to Council a recommendation that the Commission is considering approval of the project however, the Commission is still refining the architectural design and theme for the project.

Ms. Mulvihill reported that the straw vote would not bind the Planning Commission on the final vote on the project.

In reply to Chair Toerge's inquiry, Ms. Mulvihill reported on the significance of Council's meeting on January 8, 2013, regarding the Airport Land Use Commission overrule process.

Discussion followed regarding the need for Design Guidelines before further consideration and acting before the item is set to appear before Council for consistency and thoroughness.

Ensuing discussion followed regarding next steps and possible recommendations to Council.

Chair Toerge reported that he is not ready to vote on the project, absent the Design Guidelines.

Discussion followed regarding providing Council with an update regarding the Planning Commission's thoughts on the project thus far.

Motion made by Vice Chair Hillgren and seconded by Commissioner Tucker and carried 6 – 1, to direct staff to provide notice to Council that the Planning Commission has considered this project over the course of three meetings and straw votes in favor of some components of the project were made and that formal, final approval will not occur until the Design Guidelines are considered.

Commissioner Tucker added that the motion should include that the Commission sees no reason that Council should not send a notice of intent to overrule the Airport Land Use Commission at this time.

Discussion followed regarding issues related to the Airport Land Use Commission's concern of introducing residential under the John Wayne Airport flight zone.

Ms. Brandt reported that the consistency determination rests with the Airport Land Use Commission and they are looking at safety, noise and land uses for compatibility. The report that staff would present to Council is that the Planning Commission has reviewed the building heights and spatial layout of the project, has taken straw votes, and the components remaining for the project are the Development Agreement, the Affordable Housing Implementation Plan, Conditions of Approval on the Tentative Tract Map, and the Design Guidelines.

Vice Chair Hillgren agreed to Commissioner Tucker's proposed amendment to the motion.

AYES: Ameri, Brown, Hillgren, Kramer, Myers and Tucker
NOES: Toerge
ABSTENTIONS: None
ABSENT: None

Motion made by Commissioner Tucker and seconded by Commissioner Brown and carried 7 – 0, to continue this item to February 7, 2013.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge and Tucker
NOES: None
ABSTENTIONS: None
ABSENT: None

Chair Toerge commented positively on the collaborative process.

Mr. Shophoff expressed his appreciation to the Commission.

STAFF AND COMMISSIONER ITEMS

ITEM NO. 3 MOTION FOR RECONSIDERATION - None

ITEM NO. 4 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT - None

ITEM NO. 5 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT - None

ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES

Vice Chair Hillgren and Commissioners Kramer and Tucker indicated they will not be available to attend the meeting of January 3, 2013.

VIII. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 6:05 p.m.

The agenda for the Regular Meeting was posted on December 14, 2012, at 3:50 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

Michael Toerge, Chairman

Fred Ameri, Secretary

DRAFT

ADDITIONAL
MATERIALS
RECEIVED

Comments on January 03, 2013 PC Agenda Items

The following comments on items appearing on the January 03, 2013 Newport Beach Planning Commission agenda are submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item No. 1 Minutes Of December 20, 2012

I did not attend this meeting, nor have I had a chance to review the audio, so I can't comment on the substance of the minutes, but I noticed a number of minor grammatical errors, the most definite of which include:

Page 4: "Sandy Throop, ~~Corner Stone~~ Cornerstone (?) Real Estate Advisors, spoke in opposition..."

Page 6: "... sidewalks and street parcels are not included in the density calculations."

Page 7: "...the ~~drat~~ draft text allows the existing land uses to continue."

Page 8: "Mr. Campbell reported that the lower ~~the~~ height is intended to allow..."

Page 8: "Commissioner Myers agreed with ~~Commission~~ Commissioner Brown and stated..."

Page 9: "... and felt that the stated ~~the~~ 60 square foot minimum is too large."

Page 10: "He felt that the proposed ~~??~~ would improve water quality."

Page 11: "Mr. Campbell ~~address~~ addressed modification to condition number 15 ..."

Note: although closely related to the project, the discussion and recommendation regarding the Council's action on the ALUC decision (page 15) does not seem to have been adequately noticed in the agenda or briefed to the Commission by staff.

~~Item No. 2 Corporate Plaza PC Amendment (PA2012-145)~~

~~I found confusing the table in the applicant's letter reproduced on the final page of the staff report, seeming to indicate three proposed medical/dental tenants at 3 Corporate Plaza with a total square footage substantially exceeding that requested in the resolution. Kay Sims has clarified that the ophthalmologist in Suite 140 would be leaving, making room for the dentist in Suite 210.~~

~~At the same time, it appears that the current medical/dental uses at 3 Corporate Plaza, totaling 3,175 square feet, slightly exceed the 3,100 sf allowed by the current PC text.~~

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

January 3, 2013 Meeting

Agenda Item 2

SUBJECT: Corporate Plaza PC Amendment - (PA2012-145)
2 and 3 Corporate Plaza
▪ Planned Community Development Plan Amendment No. PD2012-003

APPLICANT: 3 Corporate Plaza LP – Richard Wray

PLANNER: Kay Sims, Assistant Planner
(949) 644-3237 or ksims@newportbeachca.gov

PROJECT SUMMARY

An amendment to the Corporate Plaza Planned Community Development Plan and District Regulations to increase the permitted maximum square footage for medical/dental use at 3 Corporate Plaza by 200 square feet, to a total of 3,300 square feet; and to simultaneously decrease the maximum square footage of medical/dental use at 2 Corporate Plaza by 200 square feet, to a total of 1,900 square feet.

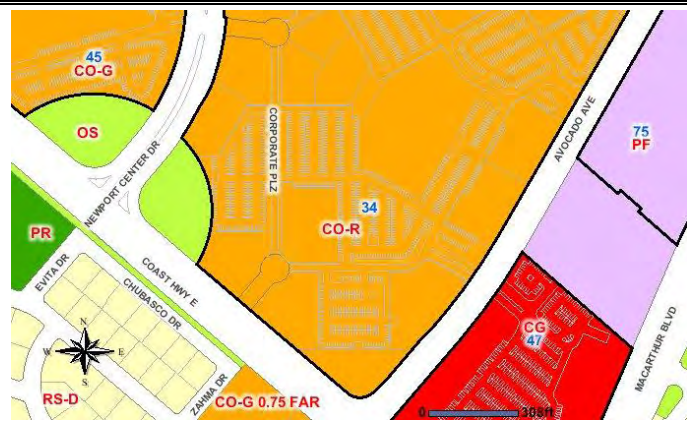
RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Planned Community Development Plan Amendment No. PD2012-003 (Attachment No. PC 1).

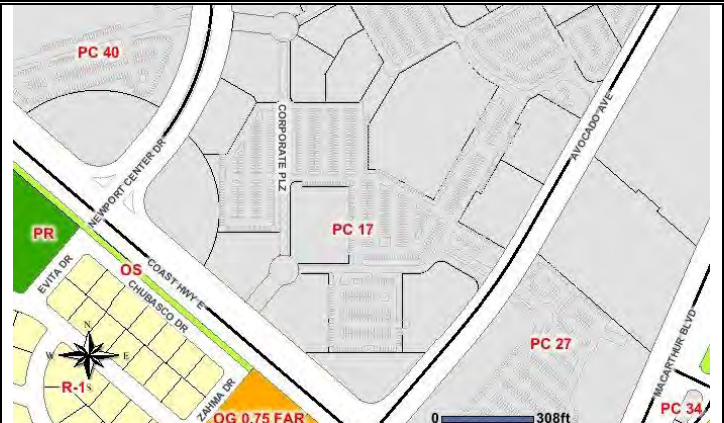
VICINITY MAP



GENERAL PLAN



ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	CO-R (Regional Commercial Office)	PC 17 (Corporate Plaza)	Office Buildings
NORTH	CO-R (Regional Commercial Office)	PC 17 (Corporate Plaza)	Office Buildings
SOUTH	RS-D (Single-Unit Residential) CO-G (General Commercial Office)	R-1 (Single-Unit Residential) OG (Office General)	Single-Unit Dwellings/ Office Buildings
EAST	CG (General Commercial)/ PF (Public Facilities)	PC 27 (Newport Village)	Retail Center/ Library, City Hall
WEST	CO-G (General Commercial Office)	PC 40 (Corporate Plaza West)	Office Buildings

INTRODUCTION

Project Setting and Background

The Corporate Plaza Planned Community District (PC 17) covers an area of approximately 47.8 acres located north of East Coast Highway between Newport Center Drive and Avocado Avenue. It consists of twenty-three building sites connected with shared parking areas. Twenty-two building sites have been developed with office buildings and one (Building Site No. 11) is developed as a shared parking area. The maximum entitlement is 477,320 gross square feet of professional office space, which includes 79,847 gross square feet of building floor area that can be used as medical/dental office space within specific Building Sites.

The subject properties, 2 and 3 Corporate Plaza (Building Site Nos. 2 and 3) are located near the intersection of East Coast Highway and Newport Center Drive adjacent to the same parking area. The office buildings are developed as follows: 2 Corporate Plaza – 24,246 gross square feet and 3 Corporate Plaza – 20,886 gross square feet.

On June 22, 2004, City Council Ordinance No. 2004-13 was passed approving Amendment No. 2004-002 for changes to the Corporate Plaza Planned Community District Regulations, which included allowing a maximum 2,100 gross square feet of medical/dental office uses within Building Site No. 2 and a maximum 3,100 gross square feet of medical/dental office uses within Building Site No. 3. Currently, 2 Corporate Plaza has one suite (1,738 square feet) that is occupied by a medical office use and 3 Corporate Plaza has two suites (totaling 3,175 square feet) that are occupied with medical/dental use.

Project Description

The applicant proposes an amendment to the Corporate Plaza Planned Community Development Plan and District Regulations to increase the permitted maximum square footage for medical/dental use at 3 Corporate Plaza by 200 square feet, to a total of 3,300 square feet; and to simultaneously decrease the maximum square footage of medical/dental use at 2 Corporate Plaza by 200 square feet, to a total of 1,900 square feet.

DISCUSSION

Analysis

Amendments to the General Plan Land Use Plan, Coastal Land Use Plan, and Zoning Code are legislative acts. Neither City regulations nor State planning law set forth required findings for approval or denial of such amendments. However, when making a recommendation to the City Council, the Planning Commission should consider whether the proposal is consistent with the General Plan and Zoning Code.

General Plan

The Corporate Plaza Planned Community General Plan Land Use Category, Regional Commercial Office (Co-R), is intended to provide for administrative and professional offices that serve local and regional markets, with limited accessory retail, financial, service, and entertainment uses; anomaly 34 limits maximum development to 484,348 square feet. The proposed amendment involves transfer of permitted medical/dental office use entitlement between two building sites within the planned community. It does not change the density, intensity, or types of uses permitted on the two properties, or within the planned community; and, therefore, is consistent with the General Plan Land Use designation.

Zoning Code/Planned Community

Land use and property development on the subject properties are regulated by the Corporate Plaza Planned Community District Regulations. Pursuant to Section IV: Business, Professional, Medical, Commercial, a maximum 2,100 gross square feet of medical/dental office uses are allowed within Building Site No. 2 (2 Corporate Plaza) and a maximum 3,100 gross square feet within Building Site No. 3 (3 Corporate Plaza). Currently, within Building Site No. 2 (2 Corporate Plaza), there is 362 square feet of medical/dental office space entitlement that is not being utilized.

The Corporate Plaza Planned Community District Regulations state that the regulations are to provide a method whereby property may be classified and developed for commercial activity, professional, business, and medical offices; and the regulations are intended to provide flexibility in both the land use and development standards for the planned building groups. The proposed amendment is consistent with the intent of these district regulations, since it involves transferring medical/dental square footage entitlement between two building sites only and will not increase the total medical/dental office square footage permitted within the Corporate Plaza Planned Community. No additional parking spaces will be required and no changes to the shared parking area adjacent to two properties areas will be needed.

Summary

Staff recommends approval of proposed amendment, since it is consistent with the Corporate Plaza Planned Community District Regulations and the General Plan, and will not be detrimental to the City of Newport Beach. The amendments to the Corporate Plaza District Regulations have been included as noted as redlined changes on pages 4 and 8 in Exhibit "A" attached to the draft Resolution of Approval.

Alternatives

The Planning Commission may recommend approval of a modified project to the City Council or deny the application. If the amendment is denied, no further action is taken, unless appealed to the City Council.

Environmental Review

This action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment.

The proposed amendment involves transferring permitted entitlement for medical/dental office square footage from one building site to another within the Corporate Plaza Planned Community only. It does not affect the density/intensity, parking requirements, or types of uses allowed within the planned community and will require only minor changes to the development standards. No construction is proposed with this application. This activity, therefore, is not subject to CEQA.

Public Notice

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:



Kay Sims, Assistant Planner



Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution for Approval and Exhibit "A"
- PC 2 Draft Resolution of Denial
- PC 3 Current Tenant Roster: 2 and 3 Corporate Plaza

Attachment No. PC 1

Draft Resolution of Approval and
Exhibit "A" with Redlined Changes

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING PD2012-003 FOR AN AMENDMENT TO THE CORPORATE PLAZA PLANNED COMMUNITY DEVELOPMENT PLAN AND DISTRICT REGULATIONS TO INCREASE THE PERMITTED MAXIMUM SQUARE FOOTAGE FOR MEDICAL/DENTAL USE AT 3 CORPORATE PLAZA BY 200 SQUARE FEET TO A TOTAL OF 3,300 SQUARE FEET; AND SIMILUTANEOUSLY, DECREASE THE MAXIMUM SQUARE FOOTAGE OF MEDICAL/DENTAL USE AT 2 CORPORATE PLAZA BY 200 SQUARE FEET TO A TOTAL OF 1,900 SQUARE FEET (PA2012-145).

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Richard Wray, on behalf of 3 Corporate Plaza LP, with respect to properties located at 2 and 3 Corporate Plaza and legally described as Parcels 2 and 3 of Re-subdivision Number 465 of Parcel Map 93, requesting approval of Planned Community Development Plan Amendment.
2. The applicant proposes an amendment to the Corporate Plaza Planned Community Development Plan and District Regulations to increase the permitted maximum square footage for medical/dental use at 3 Corporate Plaza by 200 square feet, to a total of 3,300 square feet; and to simultaneously decrease the maximum square footage of medical/dental use at 2 Corporate Plaza by 200 square feet, to a total of 1,900 square feet.
3. Pursuant to Section IV: Business, Professional, Medical, Commercial, a maximum 2,100 gross square feet of medical/dental office uses are allowed within Building Site No. 2 (2 Corporate Plaza) and a maximum 3,100 gross square feet within Building Site No. 3 (3 Corporate Plaza). Currently, within Building Site No. 2 (2 Corporate Plaza), there is 362 square feet of medical/dental office space entitlement that is not being utilized.
4. The subject properties are located within the Corporate Plaza Planned Community (PC 17) Zoning District and the General Plan Land Use Element category is Regional Commercial Office (CO-R).
5. The subject properties are not located within the coastal zone.
6. A public hearing was held on January 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code.

Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment. Therefore, this activity is not subject to CEQA.
2. The proposed amendment involves transferring permitted entitlement for medical/dental office square footage from one building site to another within the Corporate Plaza Planned Community only. It does not affect the density/intensity, parking requirements, or types of uses allowed within the planned community and will require only minor changes to the development standards. No construction is proposed with this application. This activity, therefore, is not subject to CEQA.
3. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

1. Amendments to the General Plan Land Use Plan, Coastal Land Use Plan, and Zoning Code are legislative acts. Neither City regulations nor State planning law set forth required findings for approval or denial of such amendments. However, when making a recommendation to the City Council, the Planning Commission should consider whether the proposal is consistent with the General Plan and Zoning Code.
2. The proposed amendment to the Corporate Plaza Planned Community District Regulations is consistent with the intent of the General Plan Regional Commercial Office (CO-R) Land Use Category designation of the subject properties. It will not increase the intensity/density of land uses or change the types of uses allowed throughout the planned community.
3. The proposed amendment is consistent with the intent of the Corporate Plaza Planned Community District Regulations. It involves transferring 200 square feet of medical/dental square footage entitlement between two building sites within the Corporate Plaza Planned Community only, and will not increase the total medical/dental office square footage allowed throughout the planned community. No

additional parking spaces will be required and no changes to the shared parking area adjacent to the two properties areas will be needed.

4. The proposed amendment to the Corporate Plaza Planned Community District Regulations will not be detrimental to the City of Newport Beach.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby recommends City Council approval of Planned Community Development No. PD2012-003 as noted as redline changes in Exhibit "A."
2. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Corporate Plaza PC Planned Community Development Amendment No. PD2012-003 (PA2012-145), This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PASSED, APPROVED AND ADOPTED THIS 3RD DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

Brenda Wisneski, AICP, Zoning Administrator

DRAFT

EXHIBIT “A”

CORPORATE PLAZA PLANNED COMMUNITY DISTRICT REGULATIONS

Amendment No. 728
City Council Resolution No. 92-4
January 13, 1992

Amendment No. 784
City Council Resolution No. 93-96
December 13, 1993

Amendment No. 825
City Council Resolution No. 95-115
October 9, 1995

Amendment No. 889
City Council Ordinance No. 99-27
November 8, 1999

Amendment No. 2004-002
City Council Ordinance No. 2004-13
June 22, 2004

TABLE OF CONTENTS

Introduction.....		Page 3
SECTION I	STATISTICAL ANALYSIS.....	Page 4
SECTION II	GENERAL NOTES.....	Page 5
SECTION III	DEFINITIONS.....	Page 7
SECTION IV	BUSINESS, PROFESSIONAL, MEDICAL AND COMMERCIAL.....	Page 8
Sub-Section A	Intent.....	Page 8
Sub-Section B	Permitted Uses.....	Page 8
Sub-Section C	Building Location.....	Page 8
Sub-Section D	Building Height.....	Page 9
Sub-Section E	Parking.....	Page 9
Sub-Section F	Landscaping.....	Page 9
Sub-Section G	Loading Areas.....	Page 10
Sub-Section H	Storage Areas.....	Page 10
Sub-Section I	Refuse Collection Areas.....	Page 10
Sub-Section J	Telephone and Electrical Service.....	Page 11
Sub-Section K	Signs.....	Page 11

INTRODUCTION

The Corporate Plaza Planned Community District for the City of Newport Beach is a part of the Newport Center Development in conjunction with the South Irvine Ranch General Land Use Plan and the Newport Beach General Plan which was adopted in December 1973.

The purpose of this PC (Planned Community) District is to provide a method whereby property may be classified and developed for commercial activity, professional, business, and medical offices. The specifications of this district are intended to provide flexibility in both the land use and development standards for the planned building groups.

SECTION I. STATISTICAL ANALYSIS

Corporate Plaza

1. Project Area

Gross Acreage	47.8
Net Acreage	40.4

2. Percentage of Site Coverage

a. Building Footprint	15-20
b. Parking Area	40-45
c. Landscape	40-45

3. Maximum gross building floor area shall not exceed 477,320 square feet.

4. A maximum of 79,847 gross square feet of building floor area may be allocated for medical/dental office uses on Building Sites No. 2, 3, 8, 9, 11, 17 and 22 only. Of this 79,847 gross square feet of building floor area, Building Site No. 2 is permitted a maximum ~~2,100~~1,900 gross square feet for medical/dental office uses, Building Site No. 3 is permitted a maximum ~~3,100~~3,300 gross square feet for medical/dental office uses and Building Site No. 17 is permitted a maximum of 11,200 square feet for medical/dental office uses on the first floor only. There are no restrictions on how the remaining 63,447 gross square feet can be distributed among Building Sites No. 8, 9, 11 and 22. No medical/dental office uses are permitted on any other building site.

5. The square footage of individual building sites are tentative and subject to adjustment as long as the limitations on total development are not violated. Any adjustment in the square footages for each building site shall be reviewed and approved by the Planning Director.

SECTION II. GENERAL NOTES

1. Grading outside an area submitted under the Planned Development Ordinance but within the Planned Community area will be permitted upon securing of a grading permit.
2. Water within the Planned Community area will be furnished by the City of Newport Beach.
3. Sewage disposal facilities within the Planned Community will be provided by Orange County Sanitation District No. 5.
4. The subject property is within the City of Newport Beach. The Developer will provide the necessary flood protection facilities under the jurisdiction of the City of Newport Beach.
5. Erosion control provisions shall be carried out on all areas of the Planned Community in a manner meeting the approval of the Director of Planning.
6. Except as otherwise stated in this Ordinance, the requirements of the Newport Beach Zoning Code shall apply.

The contents of this supplemental text notwithstanding, no construction shall be proposed within the boundaries of this Planned Community District except that which shall comply with all provisions of Newport Beach's Uniform Building Code and the various mechanical codes related thereto.

7. Parking lot lighting shall be subject to the review and approval of the Director of Planning. Parking lot lighting shall be designed in a manner so as to minimize impacts on adjacent residential areas.
8. All mechanical appurtenances on building roof tops and utility vaults shall be screened from street level view in a manner meeting the approval of the Director of Planning.
9. Prior to the issuance of grading permits, the site shall be examined to determine the existence and extent of archaeological and paleontological resources in accordance with adopted City policies.
10. Any future signal light on East Pacific Coast Highway at the private street intersection will be the responsibility of The Irvine Company.
11. The on-site parking, vehicular circulation and pedestrian circulation systems shall be reviewed and approved by the Traffic Engineer.
12. The intersections at private streets and drives shall be designed to provide sight distance for a speed of 30 miles per hour. Slopes, landscaping, walls and other obstructions shall be considered in the sight distance requirements. Landscaping within the sight line shall not

exceed twenty-four inches in height. The sight distance requirement may be modified at non-critical locations, subject to approval of the Traffic Engineer.

13. Prior to occupancy of any structures, easements for public emergency and security ingress, egress and public utility purposes shall be dedicated to the City over all private streets.
14. Prior to issuance of a grading permit, the master plans of water, sewer and storm drain facilities shall be reviewed and updated to current standards and any modifications or extensions to the existing storm drain, water and sewer systems shown to be required by the review shall be the responsibility of the developer unless otherwise provided for through an agreement with the property owner. The review of the storm drain master plan will require the submittal of hydrology and hydraulic studies to the Public Works Department for review and approval. The hydrology study shall include both on-site and off-site drainage to determine the measures necessary to protect the subject development from flooding during a 100 year storm frequency. The developer may be required to install retention basins upstream from the proposed development or enlarge the existing downstream storm drain system to satisfy the requirement.
15. The northerly entrance/exit on Avocado Avenue shall be designed for a right turn in and out, ONLY. The design shall provide for an island that restricts left turns. This requirement may be waived if the driveway lines up with the access to the parcel easterly of Avocado Avenue and the City incurs no additional costs to relocate their proposed access to the library site.

SECTION III. DEFINITIONS

Advertising Surface of a Sign

The total area of the face of the sign structure, excluding supports.

Area of Elevation

Total height and length of a building as projected to a vertical plane.

Setbacks from Street Corners

Setbacks from street corners shall be established as that point of intersection of the required setback lines from access streets, prolonged to point of intersection.

Entitlement Gross Floor Area

The area of a building or portion thereof including the surrounding exterior walls.

Any finished portion of a building which measures more than 4 feet from finished floor to ceiling and is accessible shall be included in calculations of gross floor area.

Areas utilized for stairwells and elevator shafts shall be counted towards gross floor area on only the first level.

Parking Gross Floor Area

The area included within the surrounding exterior walls of the building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

Parking Net Floor Area

The area included within the surrounding walls of a building, exclusive of vent shafts, elevator shafts, stairways, exterior corridors or balconies, rooms containing only mechanical and electrical equipment used for service of the building, utility shafts and parking.

Note: Exterior roofed atrium areas open on two or more sides, and exterior roofed balconies or walkways open on one side, shall not be included in Entitlement Gross Floor Area, Parking Gross Floor Area or Parking Net Floor Area calculations.

SECTION IV. BUSINESS, PROFESSIONAL, MEDICAL AND COMMERCIAL

A. Intent

The intent of this district is to permit the location of a combination of business, professional and medical office uses, and light general commercial activities engaged in the sale of products to the general public.

B. Permitted Uses

The following shall be permitted:

1. Retail sales and service of a convenience nature.
2. A maximum of 79,847 gross square feet of building floor area may be allocated for medical/dental office uses on Building Sites No. 2, 3, 8, 9, 11, 17 and 22 only. Of this 79,847 gross square feet of building floor area, Building Site No. 2 is permitted a maximum ~~2,400~~1,900 gross square feet for medical/dental office uses, Building Site No. 3 is permitted a maximum ~~3,400~~3,300 gross square feet for medical/dental office uses and Building Site No. 17 is permitted a maximum of 11,200 square feet for medical/dental office uses on the first floor only. There are no restrictions on how the remaining 63,447 gross square feet can be distributed among Building Sites No. 8, 9, 11 and 22. No medical/dental office uses are permitted on any other building site.
3. Restaurants, including outdoor, drive-in or take-out restaurants, bars and theater/nightclubs shall be subject to the securing of a use permit in each case. Facilities other than indoor dining establishments or those that qualify as outdoor, drive-in or take-out establishments shall be subject to the City of Newport Beach regulations covering drive-in and outdoor establishments.
4. Institutional, financial and governmental facilities.
5. Civic, cultural, commercial recreational and recreational facilities.
6. Parking lots, structures and facilities.
7. Drive-up teller units, subject to the review of the on-site parking and circulation plan by the City Traffic Engineer and approved by the Director of Planning.

C. Building Location

All buildings shall be located in substantial conformance with the approved site plan.

D. Building Height

All buildings and appurtenant structures shall be limited to a maximum height of thirty-two (32) feet, with the exception of Building "22" which shall be permitted up to the limit established by the sight plane and the extension of the sight plane northerly to Farallon Drive and southerly to Pacific Coast Highway.

E. Parking

Adequate off-street parking shall be provided to accommodate all parking needs for the site. The intent is to eliminate the need for any on-street parking.

Required off-street parking shall be provided on the site of the use served, or on a common parking area in accordance with the off-street parking requirements as follows:

1. Office Buildings: One parking space for each 250 square feet of net floor area, except as provided herein.

PARKING REQUIREMENT FOR OFFICE BUILDINGS BASED ON SIZE OF PARKING POOL. The parking requirement for office buildings, as specified above, may be modified in accordance with the following schedule:

- (a) For the first 125,000 sq. ft., parking shall be provided at one space per 250 sq. ft. of net floor area.
- (b) For the next 300,000 sq. ft., parking shall be provided at one space per 300 sq. ft. of net floor area.
- (c) Any additional floor area, parking shall be provided at one space per 350 sq. ft. of net floor area.

For pools based on more than 425,000 sq. ft. of net floor area, the Planning Commission may modify the parking formula by Use Permit, based on a demonstrated formula.

F. Landscaping

Detailed landscaping and irrigation plans, prepared by a licensed landscape architect, licensed landscaping contractor, or architect shall be reviewed by the Director of Parks, Beaches and Recreation. In no case shall any landscaping penetrate the sight plane ordinance established by the sight plane for Harbor View Hills.

All landscaping referred to in this section shall be maintained in a neat and orderly fashion.

1. Screening

Areas used for parking shall be screened from view or have the view interrupted by landscaping, and/or fencing from access streets, and adjacent properties.

Plant materials used for screening purposes shall consist of lineal or grouped masses of shrubs and/or trees.

2. Landscaping-Vehicle Separation

All landscaped areas shall be separated from adjacent vehicular areas by a wall or curb, at least six (6) inches higher than the adjacent vehicular area.

3. Parking Areas

Trees, equal in number to one (1) per each five (5) parking stalls shall be provided in the parking area.

G. Loading Areas

1. Street side loading shall be allowed providing the loading dock is screened from view from adjacent streets.

H. Storage Areas

1. All outdoor storage shall be visually screened from access streets, and adjacent property. Said screening shall form a complete opaque screen.
2. No storage shall be permitted between a frontage street and the building line.

I. Refuse Collection Areas

1. All outdoor refuse collection areas shall be visually screened from access streets, and adjacent property. Said screening shall form a complete opaque screen.
2. No refuse collection area shall be permitted between a frontage street and the building line.

J. Telephone and Electrical Service

All "on site" electrical line (excluding transmission lines) and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view from streets and adjacent properties.

K. Signs

1. Building Address Sign

Building address numerals shall be a maximum of two (2) feet in height and shall be consistent with the building identification signing.

Building address number shall face the street (and/or pedestrian walkways in the case of necessity), and be located on the building so that they are visible from adjacent frontage roads and designated parking areas.

2. Project/Building Identification Sign

Project and/or building identification signs are permitted at major entry access drives from adjacent frontage streets, provided that they comply with the City of Newport Beach site distance requirement 110-L.

The identification signage is permitted in the form of a free-standing (single or double faced) monument sign. The sign copy shall be restricted to the project or building name and street address. Individual letter heights shall not exceed eighteen (18) inches.

3. Tenant Identification Signs

Tenant identification signs are permitted and are divided into two (2) categories:

- Primary Tenant
- Secondary Tenant

Tenant identification signs are to be wall-mounted graphics, consisting of individually fabricated letters. Box or "can" signs are not permitted.

The maximum number of primary tenant signs permitted on any one building elevation is two (2).

Each secondary tenant shall be limited to one (1) identification sign.

The maximum letter height of a primary tenant sign shall not exceed twenty-four (24) inches. The maximum letter height of a secondary tenant sign shall not exceed sixteen (16) inches.

Sign copy shall be restricted to identification of the person, firm, company or corporation operating the use conducted on the site.

4. General Sign Standards

- a. Signs (to include all those visible from the exterior of any building) may be lighted but no sign or any other contrivance shall be devised or constructed so as to rotate, gyrate, blink or move in any animated fashion.

5. Temporary Signs

The following guidelines are intended to produce a consistent sign design for temporary signs within Newport Center. All temporary signs require the approvals of the City of Newport Beach and The Irvine Company.

Temporary signs are to identify the future site, project or facility under development on individual project sites.

Information on this sign is limited to:

- For Sale, For Lease, Future Home of, Building/Project Name, etc.
- Type or Name of Development
- Type and Area of Space Available
- Major Tenant or Developer
- Financial Institution
- General Contractor
- Architect
- Leasing Agent
- Occupancy Date
- Phone Number
- Irvine Company or Irvine Company Project Name and Logo

Location: One temporary sign is permitted on site for each frontage street. These signs may be single or double-faced and parallel or perpendicular to the roadway.

Design: All temporary signs are to be built in substantial conformance to The Irvine Company corporate design standards as shown on the following page.

Longevity: Signs can exist from the time of lease or sale of the parcel until construction and/or leasing of the facility is complete.

Attachment No. PC 2

Draft Resolution of Denial

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING PD2012-003 FOR AN AMENDMENT TO THE CORPORATE PLAZA PLANNED COMMUNITY DEVELOPMENT PLAN AND DISTRICT REGULATIONS TO INCREASE THE PERMITTED MAXIMUM SQUARE FOOTAGE FOR MEDICAL/DENTAL USE AT 3 CORPORATE PLAZA BY 200 SQUARE FEET TO A TOTAL OF 3,300 SQUARE FEET; AND SIMILUTANEOUSLY, DECREASE THE MAXIMUM SQUARE FOOTAGE OF MEDICAL/DENTAL USE AT 2 CORPORATE PLAZA BY 200 SQUARE FEET TO A TOTAL OF 1,900 SQUARE FEET (PA2012-145).

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Richard Wray, on behalf of 3 Corporate Plaza LP, with respect to properties located at 2 and 3 Corporate Plaza and legally described as Parcels 2 and 3 of Re-subdivision Number 465 of Parcel Map 93, requesting approval of Planned Community Development Plan Amendment.
2. The applicant proposes an amendment to the Corporate Plaza Planned Community Development Plan and District Regulations to increase the permitted maximum square footage for medical/dental use at 3 Corporate Plaza by 200 square feet, to a total of 3,300 square feet; and to simultaneously decrease the maximum square footage of medical/dental use at 2 Corporate Plaza by 200 square feet, to a total of 1,900 square feet.
3. Pursuant to Section IV: Business, Professional, Medical, Commercial, a maximum 2,100 gross square feet of medical/dental office uses are allowed within Building Site No. 2 (2 Corporate Plaza) and a maximum 3,100 gross square feet within Building Site No. 3 (3 Corporate Plaza). Currently, within Building Site No. 2 (2 Corporate Plaza), there is 362 square feet of medical/dental office space entitlement that is not being utilized.
4. The subject properties are located within the Corporate Plaza Planned Community (PC 17) Zoning District and the General Plan Land Use Element category is Regional Commercial Office (CO-R).
5. The subject properties are not located within the coastal zone.
6. A public hearing was held on January 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code.

Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. FINDINGS:

1. Amendments to the General Plan Land Use Plan, Coastal Land Use Plan, and Zoning Code are legislative acts. Neither City regulations nor State planning law set forth required findings for approval or denial of such amendments. However, when making a recommendation to the City Council, the Planning Commission should consider whether the proposal is consistent with the General Plan and Zoning Code.
2. The proposed amendment is not consistent with the intent of the Corporate Plaza Planned Community District Regulations.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby recommends City Council denial of Planned Community Development No. PD2012-003 (PA2012-145).

PASSED, APPROVED AND ADOPTED THIS 3RD DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

Brenda Wisneski, AICP, Zoning Administrator

Attachment No. PC 3

Current Tenant Roster: 2 and 3 Corporate Plaza

WRA Property Management, Inc.

Richard K. Wray
President

December 18, 2012

Kay Sims
City of Newport Beach
Planning Department
E-mail

Re: 2 Corporate Plaza, Newport Beach

Dear Ms. Sims:

Per your request, here is a tenant roster with uses and Square footage for 2 Corporate Plaza.

Suite

100:	The Success Family of CE Companies	(3139 SF)	(corporate offices)
125:	Masterbank America	(2650 SF)	(corporate offices)
150:	Artcast, LLC	(1929 SF)	(corporate office)
175:	Newport Dental Spa	(1738 SF)	(dental)
200:	Real Foundations	(5822 SF)	(consultants)
256:	Violet P. Woodhouse, Marilyn Slifaran, and Sharron M. Pietro	(2175 SF)	(attorneys)
275:	Diamond Escrow	(1510 SF)	(escrow service)

Please call me with any questions:

Sincerely,

Rich Wray

Richard K. Wray

WRA Property Management, Inc.
13 Corporate Plaza, Suite 150, Newport Beach, CA 92660

E-mail: rkwray@wra-pm.com

Office: (949) 644-7800

Facsimile: (949) 644-7816

Mobile: (949) 400-9624

WKA Property Management, Inc.

Richard K. Wray
President

September 20, 2012

Makana Nova
City of Newport Beach
Planning Department
E-mail

Re: **3 Corporate Plaza, Newport Beach**

Dear Ms. Nova:

Per your request, here is a tenant roster with uses and square footage.

<u>Suite</u>		<u>Area</u>	
100/101:	Remax Fine Homes – Residential Real Estate	3942 SF	
102:	Sage Community Group – Land Development	2509 SF	
140:	Dr. Lerner – Opthamalogist	1225 SF	
150:	Dr. Sandhu – Psychologist	880 SF	
200:	Priestley Chiropractic - Chiropractic	1950 SF	
210:	Susan Taylor, DDS – Dentist	1327 SF	NEW
220:	Vetchtein & Associates – Law	569 SF	
225:	Crosse Partners – Investments	890 SF	
230:	Vacant	956 SF	
240:	James McCormick - Law	537 SF	
250:	Gregor & Company – Accounting	1232 SF	

Please call me with any questions:

Sincerely,

Rich Wray

Richard K. Wray

WKA Property Management, Inc.

13 Corporate Plaza, Suite 150, Newport Beach, CA 92660

E-mail: rkwray@wra-pm.com

Office: (949) 644-7800

Facsimile: (949) 644-7816

Mobile: (949) 400-9624

ADDITIONAL
MATERIALS
RECEIVED

Comments on January 03, 2013 PC Agenda Items

The following comments on items appearing on the January 03, 2013 Newport Beach Planning Commission agenda are submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item No. 1 Minutes Of December 20, 2012

I did not attend this meeting, nor have I had a chance to review the audio, so I can't comment on the substance of the minutes, but I noticed a number of minor grammatical errors, the most definite of which include:

Page 4: "Sandy Throop, ~~Corner Stone~~ Cornerstone (?) Real Estate Advisors, spoke in opposition..."

Page 6: "... sidewalks and street parcels are not included in the density calculations."

Page 7: "...the ~~drat~~ draft text allows the existing land uses to continue."

Page 8: "Mr. Campbell reported that the lower ~~the~~ height is intended to allow..."

Page 8: "Commissioner Myers agreed with ~~Commission~~ Commissioner Brown and stated..."

Page 9: "... and felt that the stated ~~the~~ 60 square foot minimum is too large."

Page 10: "He felt that the proposed ~~??~~ would improve water quality."

Page 11: "Mr. Campbell ~~address~~ addressed modification to condition number 15 ..."

Note: although closely related to the project, the discussion and recommendation regarding the Council's action on the ALUC decision (page 15) does not seem to have been adequately noticed in the agenda or briefed to the Commission by staff.

Item No. 2 Corporate Plaza PC Amendment (PA2012-145)

I found confusing the table in the applicant's letter reproduced on the final page of the staff report, seeming to indicate three proposed medical/dental tenants at 3 Corporate Plaza with a total square footage substantially exceeding that requested in the resolution. Kay Sims has clarified that the ophthalmologist in Suite 140 would be leaving, making room for the dentist in Suite 210.

At the same time, it appears that the current medical/dental uses at 3 Corporate Plaza, totaling 3,175 square feet, slightly exceed the 3,100 sf allowed by the current PC text.

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

January 3, 2013 Meeting
Agenda Item 3

SUBJECT: Wardy Residence - (PA2012-140)
1111 Dolphin Terrace
▪ Site Development Review No. SD2012-005
▪ Modification Permit No. MD2012-017

APPLICANT: Amen and Traci Wardy

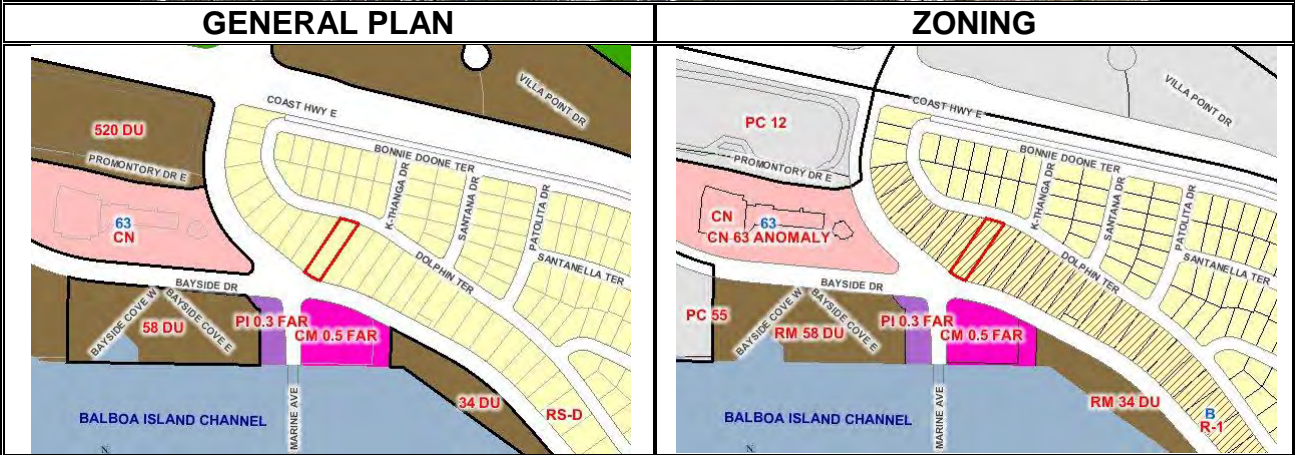
PLANNER: Patrick J. Alford
(949) 644-3235, palford@newportbeachca.gov

PROJECT SUMMARY

A request for approval of a Site Development Review to allow an increase in the boundaries of Development Area B for the purpose of the construction of a pool and retaining walls in Development Area C. The application also includes a request for a Modification Permit to allow a retaining wall over 8 feet in height from finished grade. These improvements are proposed in conjunction with the construction of new single family residence.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Site Development Review No. SD2012-005 and Modification Permit No. MD2012-017 (Attachment No. PC 1).



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	RS-D (Single-Unit Residential Detached)	R-1-B (Single-Unit Residential-Bluff Overlay)	Single-unit residential
NORTH	RS-D (Single-Unit Residential Detached)	R-1 (Single-Unit Residential)	Single-unit residential
SOUTH	CM (Commercial Recreational and Marine)	CM (Commercial Recreational and Marine)	Offices
EAST	RS-D (Single-Unit Residential Detached)	R-1-B (Single-Unit Residential-Bluff Overlay)	Single-unit residential
WEST	RS-D (Single-Unit Residential Detached)	R-1-B (Single-Unit Residential-Bluff Overlay)	Single-unit residential

INTRODUCTION

Project Setting

The project site is located in the Irvine Terrace community at 1111 Dolphin Terrace. The project site consists of 18,359-square-foot. The project site was previously developed with a single-unit residence, which is now demolished, and the site is currently undergoing grading for a new, two-story, 10,691-square-foot single-unit residence. Building permits have been issued for the construction of the residence. The project site topography consists of a graded pad on the northern half of the lot, and slope on the southern half that drops down to Bayside Drive. The remnant of a ravine that cut into the bluff face prior to the development of Irvine Terrace causes the contours of the slope to curve inland towards Dolphin Terrace.

Adjacent uses consist of single-story, single-family residences to the east, west, and north (across Dolphin Terrace), and Bayside Square office complex and the Newport Beach Yacht Club to the south (across Bayside Drive).

Project Description

The applicant proposes to construct series of retaining walls on the slope to support a pool/spa, lawn area, and terraced planters in the rear yard. The heights of retaining walls for the planters range from 2 feet to 8 feet above finished grade. The height of the retaining wall paralleling the western property line is 14 feet above finished grade at the highest point.

A portion of the pool and retaining walls encroach into Development Area C, as defined by the Bluff Overlay District. Development Area C allows a limited range of accessory structures that does not include swimming pools and retaining walls. Therefore, the applicant is requesting a Site Development Review to modify the development area boundaries so that these proposed structures are located within Development Area B as depicted on the Project Plans (Attachment PC 2).

The application also includes a request for a modification permit to allow a retaining wall over 8 feet in height from finished grade. Section 20.30.040.A.2 of the Zoning Code sets the maximum height of retaining walls at 8 feet measured from finished grade at the base of the wall. The section of the retaining wall in question is located near the western side property line. The section that exceeds the 8-foot height limit runs approximately 28-feet, 6-inches and is approximately 14-feet-high at the highest point (See Figure 1 below).

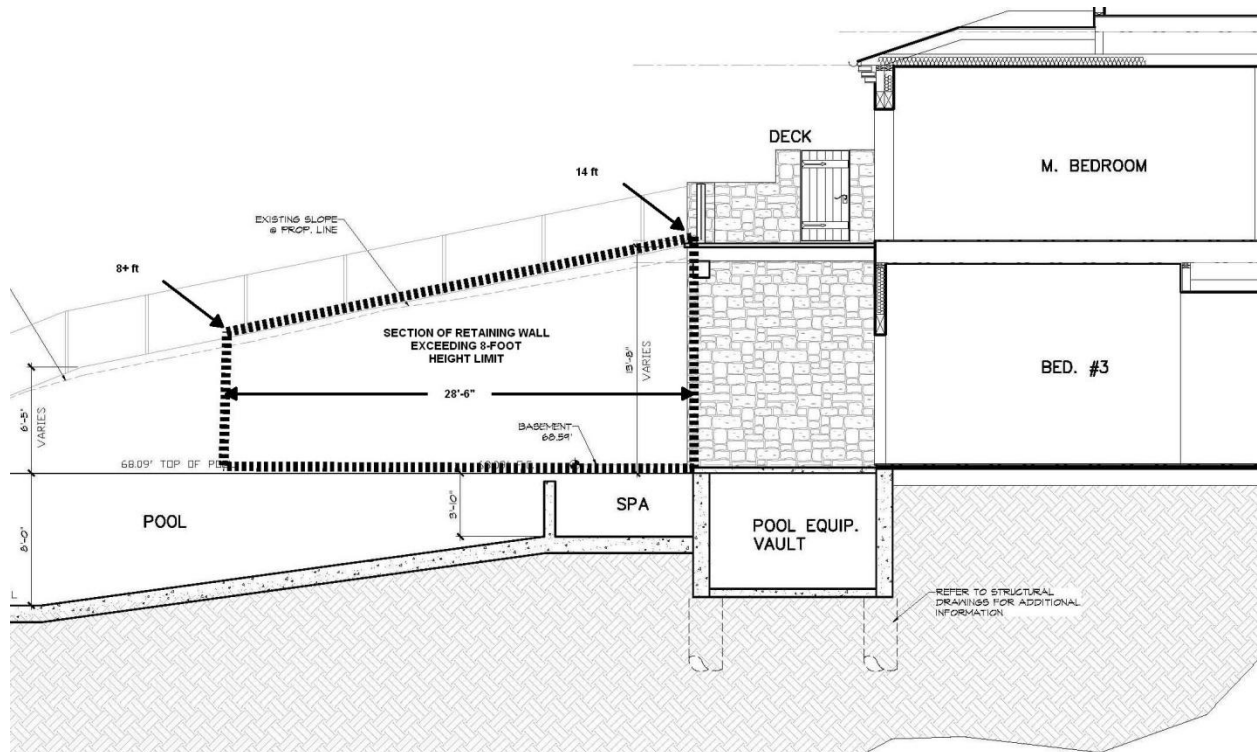


Figure 1 – Side Retaining Wall

DISCUSSION

Analysis

General Plan

The site is designated RS-D (Single-Unit Residential Detached) by the Land Use Element of the General Plan and is located in the R-1-B (Single-Unit Residential Detached, Bluff Overlay) Zoning District. The proposed structures are consistent with this land use category and the zoning district.

Local Coastal Plan

The City's certified Coastal Land Use Plan (CLUP) sets forth goals, objectives, and policies that govern the use of land and water in the coastal zone in accordance with the Coastal Act. CLUP Policy 4.4.3-10 specifically addresses the bluffs along Bayside Drive, including Irvine Terrace:

- 4.4.3-10.** The coastal bluffs along Bayside Drive that have been cut and filled by the Irvine Terrace and Promontory Point developments are no longer subject to marine erosion. New development on these bluffs is subject to the setback restrictions established for bluff top development located on a bluff not subject to marine erosion.

CLUP Policy 4.4.3-5 relates to bluffs not subject to marine erosion and requires principal structures and major accessory structures to be set back from the bluff edge in accordance with the “predominant line of existing development:”

- 4.4.3-5.** Require all new bluff top development located on a bluff not subject to marine erosion to be set back from the bluff edge in accordance with the predominant line of existing development in the subject area. This requirement shall apply to the principal structure and major accessory structures such as guesthouses and pools. The setback shall be increased where necessary to ensure safety and stability of the development.

The City does not have a certified Implementation Plan. However, the Bluff Overlay development areas (see discussion below) were generally derived from a development line established by the Irvine Terrace Community Association (10-feet from the top of bluff) and a blanket rear setback variance adopted in 1954 for this area (13 feet below the top of the curb). Since development has adhered to these limits for decades, these development limit lines generally represent the predominant lines of existing development for this area. Therefore, the Bluff Overlay development areas are considered to be consistent with the CLUP.

CLUP Policy 4.4.3-14 requires swimming pools located on bluff properties to incorporate leak prevention and detection measures. A condition has been included to ensure compliance with this policy.

It should be noted that the project site is located within and meets the conditions of Categorical Exclusion Order E-77-5; therefore, the project will not require a coastal development permit.

Bluff Overlay District

Both the Land Use Element and the Natural Resources Element of the General Plan contain policies calling for the protection of bluffs and other landforms. The Bluff (B) Overlay District was established to implement these policies.

The Bluff Overlay District is applied to a number of areas of the City that contain bluffs, including the south side of Dolphin Terrace in Irvine Terrace (See Attachment PC 3, Bluff Overlay Map B-2).

Each lot on Dolphin Terrace within the Bluff Overlay District is divided into three development areas:

- I. Development Area A covers the area between the front property line adjacent to Dolphin Terrace and a 10-foot setback from the top of the existing bluff. Area A allows for the development and use of principal and accessory structures, and accessory structures allowed in Areas B and C.
- II. Development Area B covers between the 10-foot setback from the top of the existing bluff and a line established at an elevation that is 13 feet below the average elevation of the top of the curb adjacent to the lot. Area B allows for the development and use of accessory structures, including swimming pools, spas, and hot tubs; walls, fences, and retaining walls, and patio covers, decks, and gazebos. Principal structures are not allowed.
- III. Development Area C covers all portions of the lot not located in Areas A and B. Area C allows for the development and use of limited accessory structures, including landscaping/irrigation system, drainage devices, on-grade trails and stairways, and property line walls and walls, not including retaining walls.

Section 20.28.040.I of the Zoning Code allows development area boundaries to be adjusted through the approval of a site development review to allow structures and grading not otherwise allowed.

The proposed adjustment would shift the Area B/Area C boundary up to 34 feet down-slope to include the portions of the proposed swimming pool and retaining walls within Area B. This adjustment would increase Area B by approximately 1,444 square-feet.

In accordance with Section 20.28.040 of the Zoning Code, the Planning Commission must make the following findings for approval of an increased development area:

1. *The increased bluff development area will ensure a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff or canyon, whichever is farther landward;*
2. *The increased bluff development area will provide adequate protection from the erosion factors for the economic life of the development;*
3. *The increased bluff development area will be compatible and consistent with surrounding development; and*
4. *The increased bluff development area will not have an impact on public views, sensitive habitat areas, and is not otherwise detrimental to the general public health and welfare.*

Staff believes that the facts are in evidence of support of the required findings to allow the proposed adjustment to shift the Area B/Area C boundary to include the portions of the proposed swimming pool and retaining walls within Area B:

- The applicant's geotechnical consultant has provided a geotechnical analysis (See Attachment PC 4) demonstrating that the existing descending slope has a slope stability factor¹ of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff. Furthermore, the proposed improvements in the rear yard will be supported by deep pile foundations supported into competent bedrock that will provide stability to the structures and also increase the factor of safety of the descending slope.
- The proposed retaining walls, pool/spa, and planters are consistent with the surrounding development in the Irvine Terrace community, which is characterized by varying degrees of development along the bluff area adjacent to Bayside Drive (See aerial photos, Attachment PC 5).
- The proposed Area B/Area C boundary is consistent with the predominant line of existing accessory structure development on the adjacent properties.
- There are no public viewing areas in the vicinity to the project site, so the project will not have an impact to public viewsheds; also, the project will provide extensive landscaping on the slope to assist in screening the proposed retaining walls and pool/spa from view by travelers on Bayside Drive.
- There are no sensitive habitat areas on the site or in the immediate vicinity.

Site Development Review

In accordance with Section 20.52.080.F of the Zoning Code, the Planning Commission must also make the following findings to approve a site development review to modify the development area boundaries so that these proposed structures are located within Development Area B:

1. *The proposed development is allowed within the subject zoning district;*
2. *In compliance with all of the applicable criteria identified in Subparagraph C.2.c:*

¹ Slope stability factor is a term that describes the structural capacity of a system beyond the expected or actual loads. The slope stability analysis assesses the safe and economic design of a human-made or natural slope and the equilibrium conditions.

- 1) *Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
 - 2) *The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;*
 - 3) *The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
 - 4) *The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
 - 5) *The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
 - 6) *The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections); and*
3. *The proposed development is not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Staff believes that the facts are in evidence of support of the required findings to approve the site development review:

- The proposed structures are accessory to a single-unit residence and therefore consistent with the General Plan land use designation and the zoning district, and the project site is not located within a specific plan area.
- The proposed planter retaining walls are terraced at varying heights, which serves to break-up their mass. Extensive landscaping on the slope is provided to assist in screening the proposed planter retaining walls and pool/spa from view from Bayside Drive; these project design features will not increase the bulk or scale of development on the slope and provide an aesthetic treatment that is compatible with the surrounding development.

- The proposed structures do not include any improvements to the public right-of-way or off-street parking facilities; therefore, the project does not involve any issues relating to the adequacy, efficiency, and safety of pedestrian and vehicular access, or parking and loading spaces.
- The project will provide extensive landscaping on the slope to assist in screening the proposed retaining walls and pool/spa from view from Bayside Drive. The project has been conditioned to provide water efficient plant and irrigation materials.
- There are no public viewing areas in the vicinity of the project site, so the project will not have an impact to public viewsheds and Bayside Drive is not identified as a coastal view road.
- The proposed structures are designed and conditioned to be harmonious with the surrounding development to not present a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the Irvine Terrace community.

Modification Permit

A modification permit is required to allow a retaining wall up to 14 feet in height along the western side property line. Section 20.30.040.A.2 of the Zoning Code sets the maximum height of retaining walls at 8 feet measured from finish grade at the base of the wall. In accordance with Section 20.52.050.E of the Zoning Code, the Planning Commission must also make the following findings to approve a modification permit:

1. *The requested modification will be compatible with existing development in the neighborhood;*
2. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use;*
3. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code;*
4. *There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public; and*
5. *The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or*

the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

Staff believes that the facts are in evidence of support of the required findings to approve the modification permit for the increased height of the retaining wall:

- The proposed retaining wall is proposed to be located outside of the side setback area in-line with the exterior walls of the residence, so it will not present an abrupt drop-off in elevation with the adjacent property. Also, the proposed retaining wall will run perpendicular, not parallel, to Bayside Drive, which will not present a massive wall surface when viewed from the roadway.
- The project will provide extensive landscaping on the slope to assist in screening the proposed retaining wall from view by travelers on Bayside Drive.
- The project site has topographic characteristics that are unique to other bluff properties in Irvine Terrace. Prior to alteration by the Irvine Terrace development, the bluff face on the project site contained a ravine, which still causes the contours of the slope to curve inland towards Dolphin Terrace (See topographic map, Attachment PC 6). This topographic feature presents a practical difficulty that requires more extensive grading and retaining structures in order to attain parity with the adjacent development.
- The project site is topographically-constrained relative to the two abutting properties; alternatives to the increased height of the retaining wall would further constrain development on the project site.
- The proposed retaining wall is proposed to be located outside of the side setback area and will be topped with a 42-inch-high glass guardrail to avoid negative impacts to the abutting property.
- The proposed retaining wall will not result in change in density or intensity of development on the project site; the single-unit residence will have a building height and floor area that is consistent with the provisions of the Zoning Code.

Environmental Review

The project is categorically exempt under Section 15303, of the California Environmental Quality Act (CEQA) Guidelines - Class 3 (New Construction or Conversion of Small Structures).

The Class 3 exemption includes the construction of one single-family residence and accessory structures, including garages, carports, patios, swimming pools, and fences.

The proposed development involves the construction of a new single-unit residence, retaining walls, pool/spa, and planters. Therefore, the proposed project qualifies for an exemption under Class 3.

Public Notice

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:



Patrick J. Alford, Planning Manager



Brenda Wisneski AICP, Deputy Director

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 Project plans
- PC 3 Bluff Overlay Map B-2 Irvine Terrace – Dolphin Terrace
- PC 4 Coast Geotechnical letter
- PC 5 Aerial Photos
- PC 6 Topographic Map of Dolphin Terrace

Attachment No. PC 1

Draft Resolution with Findings and
Conditions

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING SITE DEVELOPMENT REVIEW NO. SD2012-005 AND MODIFICATION PERMIT NO. MD2012-017 FOR PROPERTY LOCATED AT 1111 DOLPHIN TERRACE (PA2012-140)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Amen and Traci Wardy, with respect to property located at 1111 Dolphin Terrace, and legally described as Lot 10 of Tract No. 5130 requesting approval of a site development review and a modification permit.
2. The applicants request approval of a site development review to allow an increased development area within the Bluff Overlay District for the construction of a series of retaining walls to support a pool/spa, lawn area, and terraced planters within Development Area C.
3. The subject property is located within the R-1-B (Single-Unit Residential-Bluff Overlay) Zoning District and the General Plan Land Use Element category is RS-D (Single-Unit Residential Detached).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single-Unit Residential Detached).
5. A public hearing was held on January 3, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
2. The Class 3 exemption includes the construction of one single-family residence and accessory structures, including garages, carports, patios, swimming pools, and fences. The proposed development involves the construction of a new single-unit residence, retaining walls, pool/spa, and planters. Therefore, the proposed project qualifies for an exemption under Class 3.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.28.040.I of the Zoning Code, the Planning Commission must make the following findings for approval of an increased development area through the approval of a site development review:

Finding:

- A. *The increased bluff development area will ensure a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff or canyon, whichever is farther landward;*

Facts in Support of Finding:

- A-1. The applicant's geotechnical consultant has provided a geotechnical analysis demonstrating that the existing descending slope has a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff.
- A-2. The proposed improvements in the rear yard will be supported by deep pile foundations supported into competent bedrock that will provide stability to the structures and also increase the factor of safety of the descending slope.

Finding:

- B. *The increased bluff development area will provide adequate protection from the erosion factors for the economic life of the development;*

Facts in Support of Finding:

- B-1. The project is conditioned to ensure that adequate protection of the house and surrounding accessory structures for the economic life of the development.

Finding:

- C. *The increased bluff development area will be compatible and consistent with surrounding development; and*

Facts in Support of Finding:

- C-1. The proposed retaining walls, pool/spa, and planters are consistent with the surrounding development in the Irvine Terrace community, which is characterized by varying degrees of development along the bluff area adjacent to Bayside Drive.

C-2 The proposed Area B/Area C boundary is consistent with the predominant line of existing accessory structure development on the adjacent properties.

Finding:

D. The increased bluff development area will not have an impact on public views, sensitive habitat areas, and is not otherwise detrimental to the general public health and welfare.

Facts in Support of Finding:

D-1. There are no public viewing areas in the vicinity to the project site, so the project will not have an impact to public viewsheds.

D-2. The project will provide extensive landscaping on the slope to assist in screening the proposed retaining walls and pool/spa from view by travelers on Bayside Drive.

D-3. There are no sensitive habitat areas on the site or in the immediate vicinity.

In accordance with Section 20.52.080.F of the Zoning Code, the Planning Commission must also make the following findings for approval of a site development review:

Finding:

E. The proposed development is allowed within the subject zoning district;

Facts in Support of Finding:

E-1. The site is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element. This designation allows for a range of detached single-unit residential dwelling units; each located on a single legal lot, and does not include condominiums or cooperative housing.

E-2. The single-unit residence and improvements to be constructed are compatible with the other single-unit residential land uses within the surrounding neighborhood.

E-3. The subject property is not part of a specific plan area.

Finding:

F. The proposed development is in compliance with all of the applicable criteria identified in Subparagraph C.2.c:

a. Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;

- b. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;*
- c. The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
- d. The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
- e. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
- f. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections); and*

Facts in Support of Finding:

- F-1. The proposed structures are accessory to a single-unit residence and therefore consistent with its General Plan land use designation and the zoning district,
- F-2. The project site is not located within a specific plan area.
- F-3. The proposed planter retaining walls are terraced at varying heights, which serves to break-up their mass. Extensive landscaping on the slope is provided to assist in screening the proposed planter retaining walls and pool/spa from view from Bayside Drive; these project design features will not increase the bulk or scale of development on the slope and provide an aesthetic treatment that is compatible with the surrounding development.
- F-4. The proposed structures do not include any improvements to the public right-of-way or off-street parking facilities; therefore, the project does not involve any issues relating to the adequacy, efficiency, and safety of pedestrian and vehicular access, or parking and loading spaces.
- F-5. The project will provide extensive landscaping on the slope to assist in screening the proposed retaining walls and pool/spa from view from Bayside Drive. The project has been conditioned to provide water efficient plant and irrigation materials.
- F-6. The project has been conditioned to provide water efficient plant and irrigation materials.
- F-7. There are no public viewing areas in the vicinity of the project site, so the project will not have an impact to public viewsheds and Bayside Drive is not identified as a coastal view road.

Finding:

- G. *The proposed development is not detrimental to the harmonious and orderly growth of the City, or endanger jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

- G-1. The proposed structures are designed and conditioned to be harmonious with the surrounding development to not present a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the Irvine Terrace community.

In accordance with Section 20.52.050.E of the Zoning Code, the Planning Commission must also make the following findings to approve a modification permit:

Finding:

- H. The requested modification will be compatible with existing development in the neighborhood;

Facts in Support of Finding:

- H-1. The proposed retaining wall is proposed to be located outside of the side setback area in-line with the exterior walls of the residence, so it will not present an abrupt drop-off in elevation with the adjacent property.
- H-2. The project will provide extensive landscaping on the slope to assist in screening the proposed retaining wall from view by travelers on Bayside Drive.
- H-3. The proposed retaining wall will run perpendicular, not parallel, to Bayside Drive, which will not present a massive wall surface when viewed from the roadway.

Finding:

- I. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use;

Facts in Support of Finding:

- I-1. The project site has topographic characteristics that are unique to other bluff properties in Irvine Terrace. Prior to alteration by the Irvine Terrace development, the bluff face on the project site contained a ravine, which still causes the contours of the slope to curve inland towards Dolphin Terrace.

Finding:

- J. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code;

Facts in Support of Finding:

- J-1. The topographic characteristics of the project site present a practical difficulty that requires more extensive grading and retaining structures in order to attain parity with the adjacent development.

Finding:

- K. There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public;

Facts in Support of Finding:

- K-1. The project site is topographically-constrained relative to the two abutting properties; alternatives to the increased height of the retaining wall would further constrain development on the project site.

Finding:

- L. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.

Facts in Support of Finding:

- L-1. The proposed retaining wall is proposed to be located outside of the side setback area and will be topped with a 42-inch-high glass guardrail to avoid negative impacts to the abutting property.
- L-2. The proposed retaining wall will not result in change in density or intensity of development on the project site; the single-unit residence will have a building height and floor area that is consistent with the provisions of the Zoning Code.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Site Development Review No. SD2012-005 and Modification Permit No. MD2012-017, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL (*Project-specific conditions are in italics*)

Planning

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Site Development Review No. SD2012-005 and Modification Permit No. 2012-017 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Site Development Review.
5. This Site Development Review and Modification Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
6. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Site Development Review and Modification Permit or the processing of a new site development review and modification permit.
7. Should the property be sold or otherwise come under different ownership, any future owner(s) or assignee(s) shall be notified of the conditions of this approval by either the current property owner or the leasing agent.
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. A copy of this approval letter shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
10. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Site Development Review/Modification Permit file. The plans shall be identical to those

approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Site Development Review/Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

11. *Prior to the issuance of a building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.*
12. *All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.*
13. *Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and between the hours of 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.*
14. *The pool/spa shall incorporate leak prevention and detection measures.*
15. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Wardy Residence** including, but not limited to, the **Site Development Review No. SD2012-005 and Modificaton Permit No. (PA2012-017)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division Conditions

16. *A geotechnical report shall be required with the submittal of construction drawings for plan check. The project shall comply with any mitigation measures contained in said report and the requirements of the Newport Beach Building Division.*

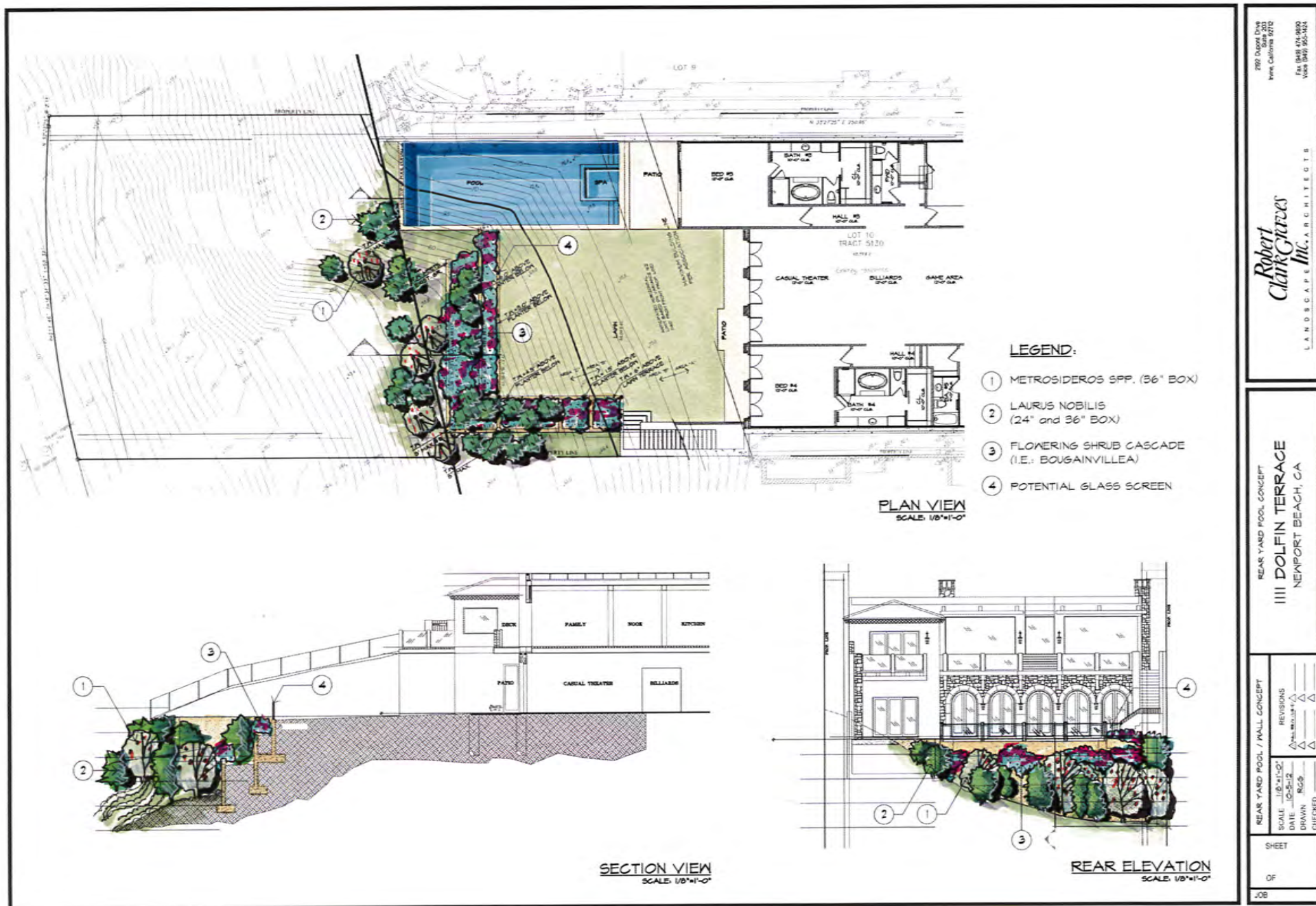
17. *Drainage and grading plans shall be required with the submittal of construction drawings for plan check.*
18. *Drainage shall be conducted to a public storm drain. Filtration shall be required prior to discharging water into public storm drains.*
19. *Pool and all site walls shall be founded on caissons and grade beams and shall include seismic load contributions.*
20. *Shoring shall be required for cuts having depth greater than 1:1 distance to property line.*
21. *Pool drainage shall be clearly noted to discharge into approved public waste or storm drains. Back flow devices shall be required for all fixtures below manholes.*

Public Works Conditions

22. *The existing 5-foot-wide sewer easement along the southwesterly property line shall be vacated prior to the start of construction.*
23. *No work shall be permitted within the existing 6-foot-wide easement along the northwesterly property line.*

Attachment No. PC 2

Project Plans



2800 Ocean Blvd.
Suite 200
Newport Beach, California 92660
Tel: (949) 424-9800
Fax: (949) 955-1824

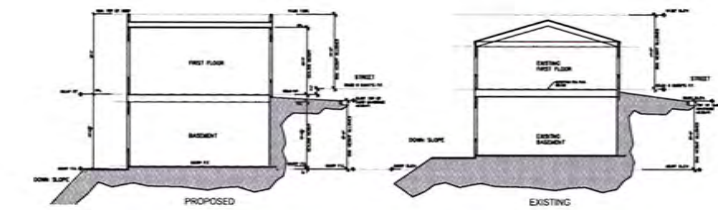
Robert Clark
Clark
Gurres
Inc.
LANDSCAPE ARCHITECTS

REAR YARD POOL CONCEPT
||| DOLFIN TERRACE
NEWPORT BEACH, CA

REAR YARD POOL / MALL CONCEPT	REVISIONS
SCALE: 1/8"=1'-0"	DATE: 10/20/12
DRAWN: RCB	CHECKED: [initials]
SHEET	OF
JOB	



PROJECT NO:
1113
PLAN CHECK NO:
2193-2011
SHEET NO:
M-1
DATE:
NOV. 14, 2012

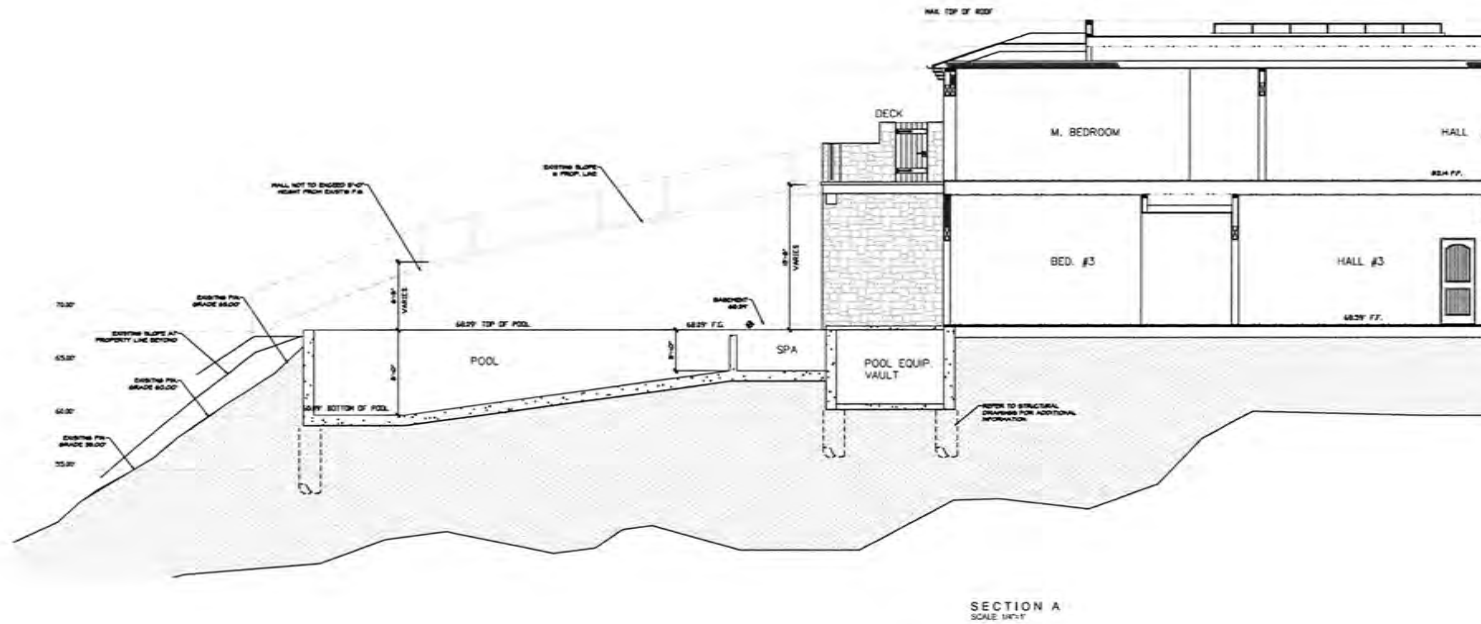


HEIGHT STUDY
SCALE: 1/8"=1'-0"

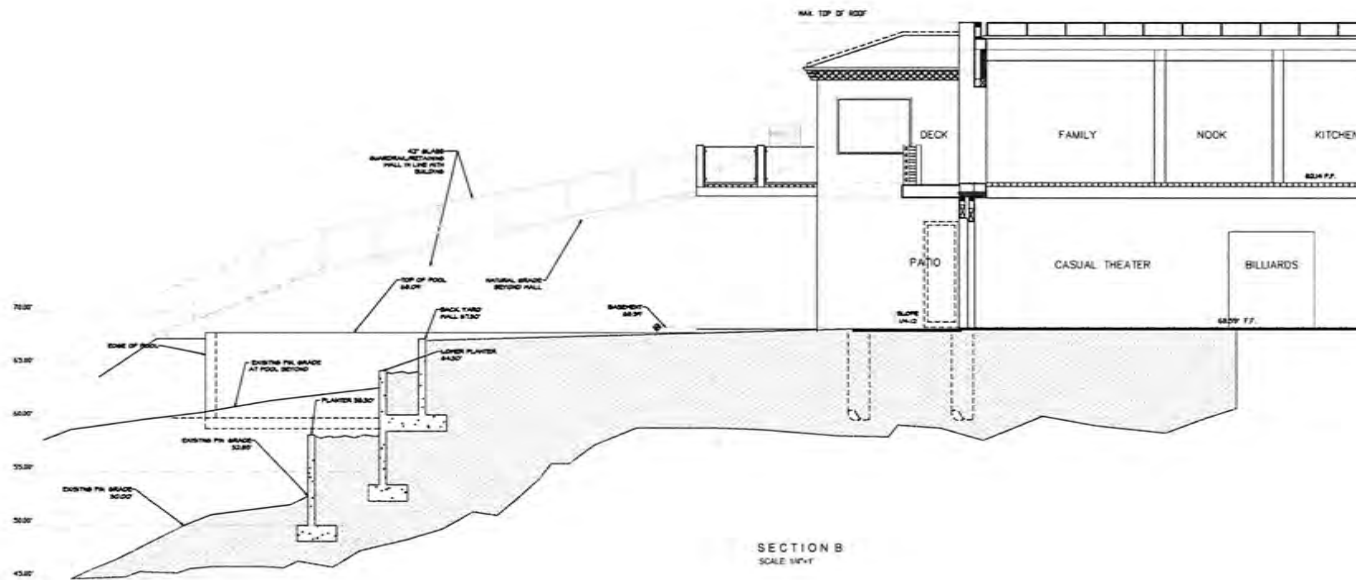
REAR ELEVATION
SCALE: 1/4"=1'-0"

[illegible]

30



SECTION A
SCALE 1/4"=1'

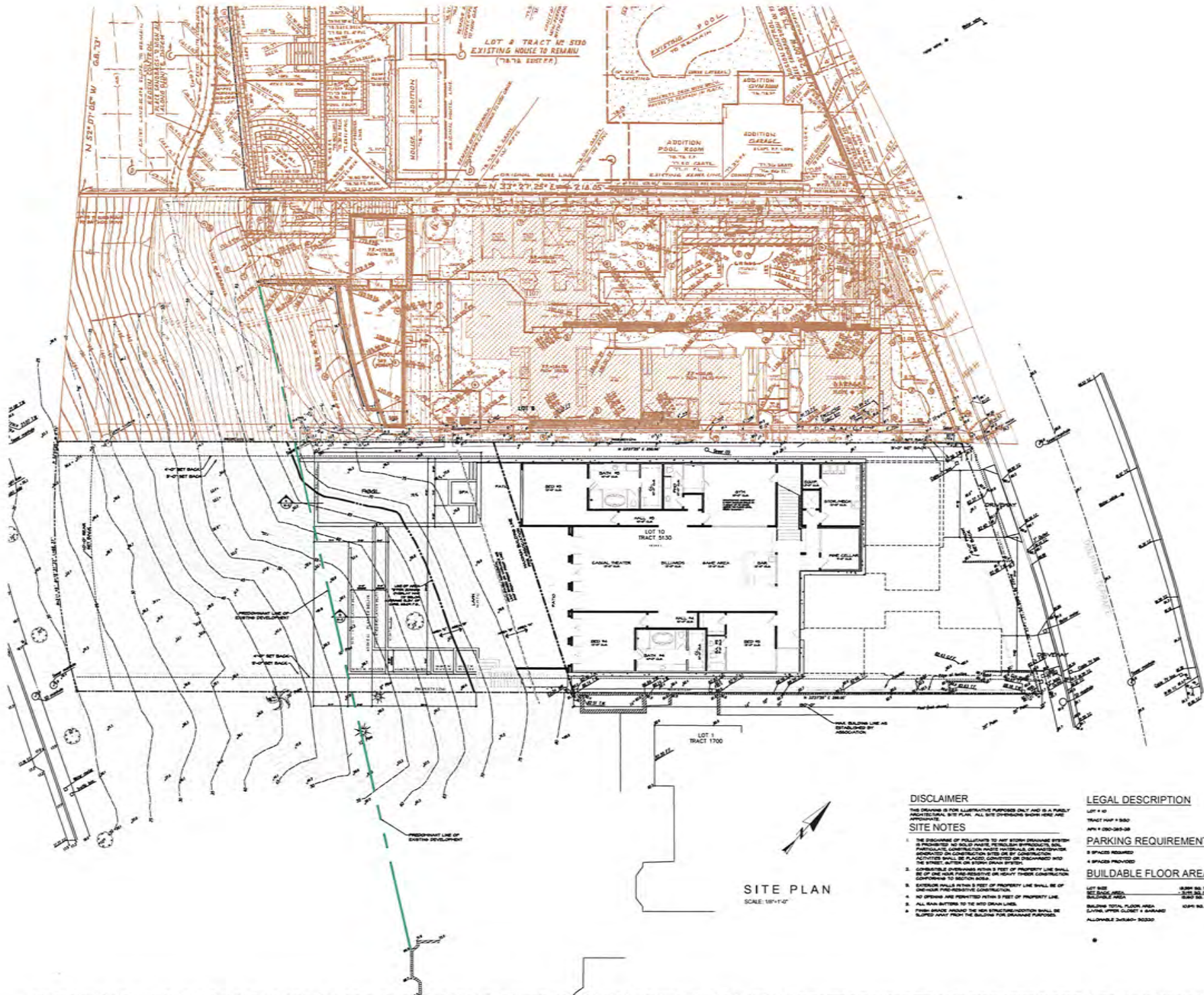


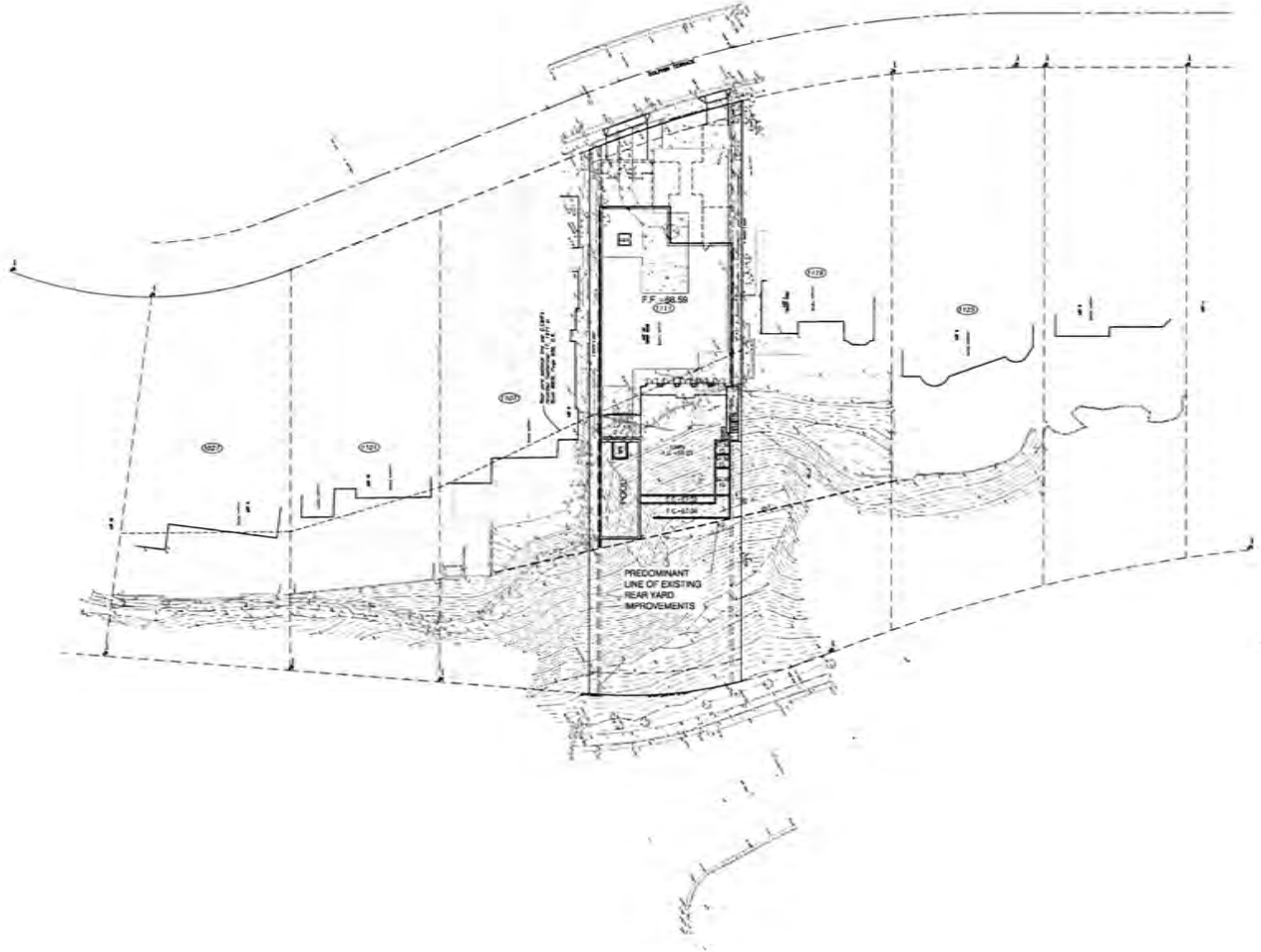
SECTION B
SCALE 1/4"=1'



SITE PLAN PLAN

1113
JSTOR URL: <http://www.jstor.org/stable/24193>
24193-2011
REV. 1901
M-S
NOV. 14, 2012

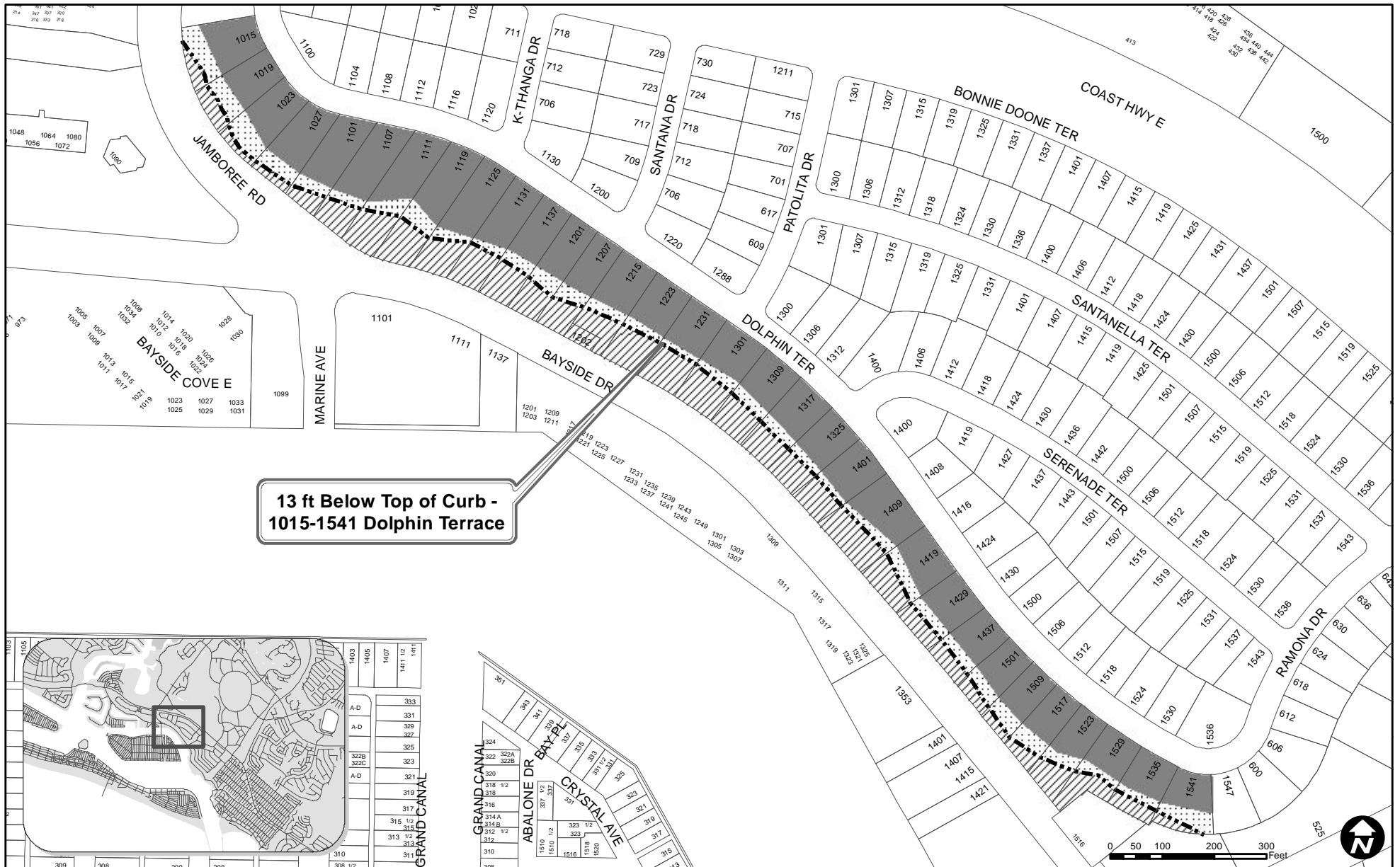
[illegible]



DATE	12/27/12	DATE	12/27/12
BY	WJA	CHK	WJA
APP'D	12/27/12	APP'D	12/27/12
DATE	12/27/12	DATE	12/27/12

Attachment No. PC 3

Bluff Overlay Map B-2



B-2 Irvine Terrace - Dolphin Terrace

- Development Areas Delineated By:
- Specified Distance from Front Property Line
 - - - Specified Distance Below Top of Curb
 - · · Specified Contour
 - Development Area A
 - ▨ Development Area B
 - ▩ Development Area C

Attachment No. PC 4

Coast Geotechnical letter

COAST GEOTECHNICAL, INC.

1200 W. Commonwealth Avenue, Fullerton, CA 92833 Ph: (714) 870-1211 Fax: (714) 870-1222

December 20, 2012

W.O. 377509-07

Mr. Amen Wardy
535 East Coast Highway, Suite 363
Newport Beach, CA 92625

Subject: Response to City of Newport Beach, Planning Division,
Slope Stability, Proposed Rear Yard Improvements at
1111 Dolphin Terrace, Newport Beach, California.

References:

1. Geotechnical Engineering Investigation for Proposed Residential Development at 1111 Dolphin Terrace, Newport Beach, California; by COAST GEOTECHNICAL, W.O. 377509-01, dated March 6, 2009.
2. Report Update, Proposed Residential Development at 1111 Dolphin Terrace, Newport Beach, California; by COAST GEOTECHNICAL, W.O. 377509-02, dated October 4, 2011.
3. Response to Geotechnical Report Review, Proposed Residence at 1111 Dolphin Terrace, Newport Beach, California; by COAST GEOTECHNICAL, W.O. 377509-05, dated June 19, 2012.
4. Response to Geotechnical Report Review, Proposed Residence at 1111 Dolphin Terrace, Newport Beach, California; by COAST GEOTECHNICAL, W.O. 377509-06, dated November 30, 2012.

Dear Mr. Wardy:

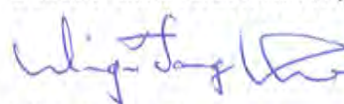
In accordance with your request, COAST GEOTECHNICAL, Inc. is responding to the City of Newport Beach, Planning Division, dated December 20, 2012, prepared by Mr. Patrick Alford, Planning Manager for the City of Newport Beach, Community Development Department. *The review question is in regard to the static and seismic slope stability based on the increased bluff or canyon development.*

Response

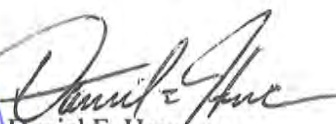
Reference # 1 provided slope stability analyses of the existing man-made descending slope condition. The analyses demonstrates that the existing descending slope has a static factors of safety in excess of 1.5 and a seismic factor of safety in excess of 1.1. The proposed rear yard improvements will be at a lower elevations than existing grade, thus removing loading near the top of the slope and increasing the factor of safety of descending slope. Furthermore, site improvement of the rear yard, i.e. pool and retaining walls, will be supported by deep pile foundations supported into competent bedrock, which will provide stability to the structures and also increase the factor of safety of the descending slope.

We appreciate this opportunity to be of service to you.

Respectfully submitted:
COAST GEOTECHNICAL, INC.



Ming-Tarn Chen
RCE 54011



Daniel E. Herc
Staff Geologist

Attachment No. PC 5

Aerial Photos



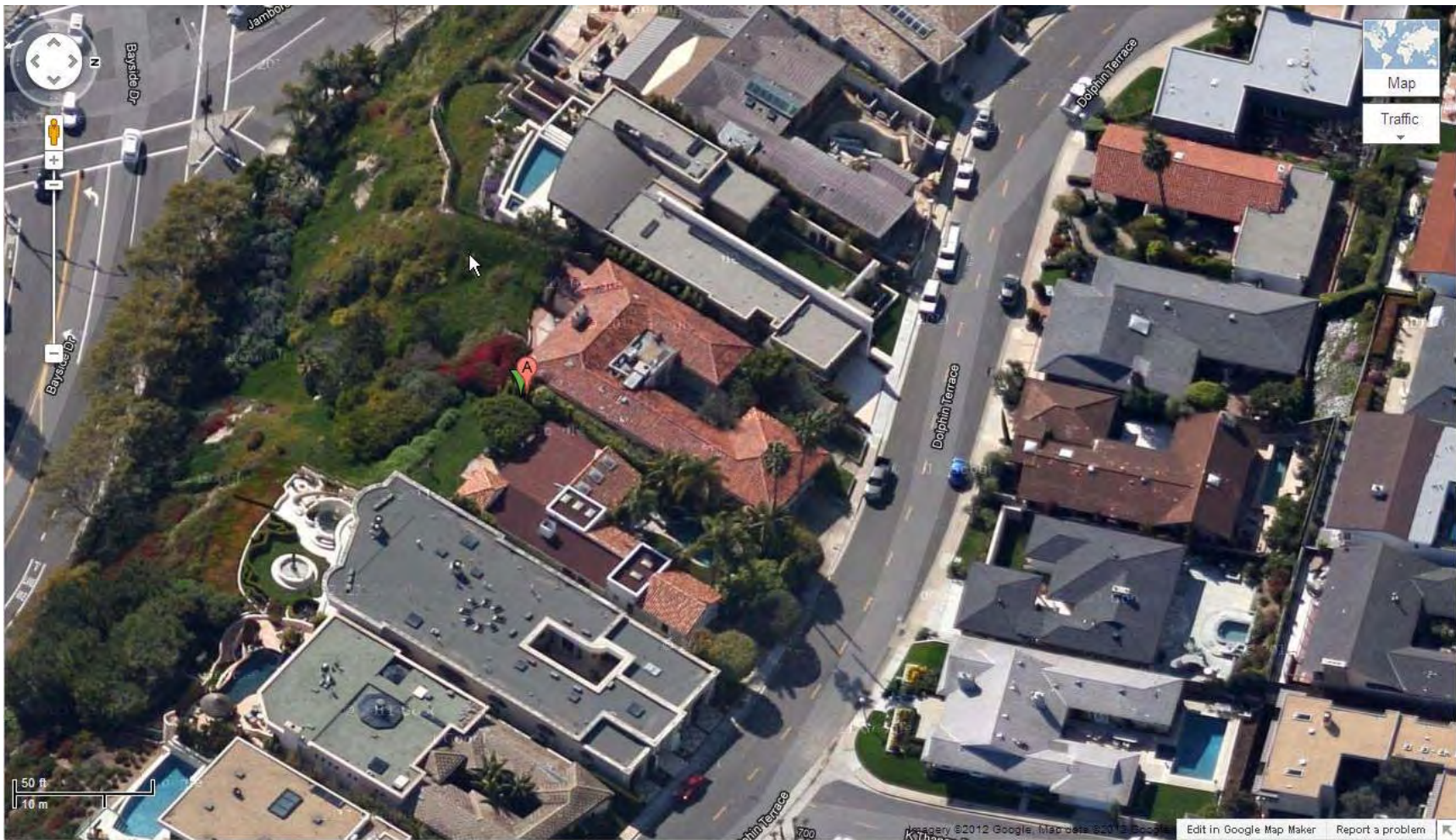
Wardy Residence - 1111 Dolphin Terrace

View from the North



Wardy Residence - 1111 Dolphin Terrace

View from the South



Wardy Residence - 1111 Dolphin Terrace

View from the East

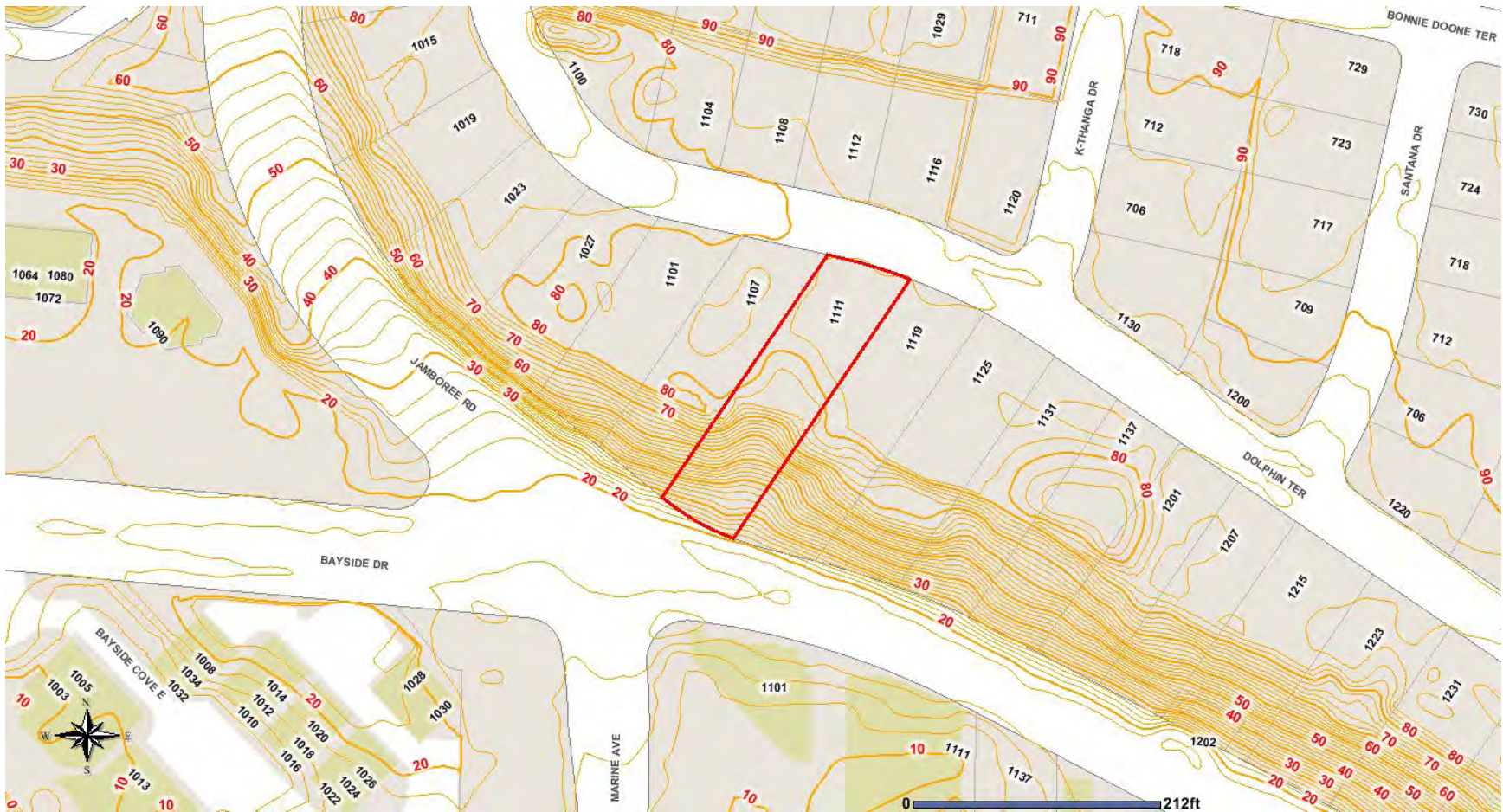


Wardy Residence - 1111 Dolphin Terrace

View from the West

Attachment No. PC 6

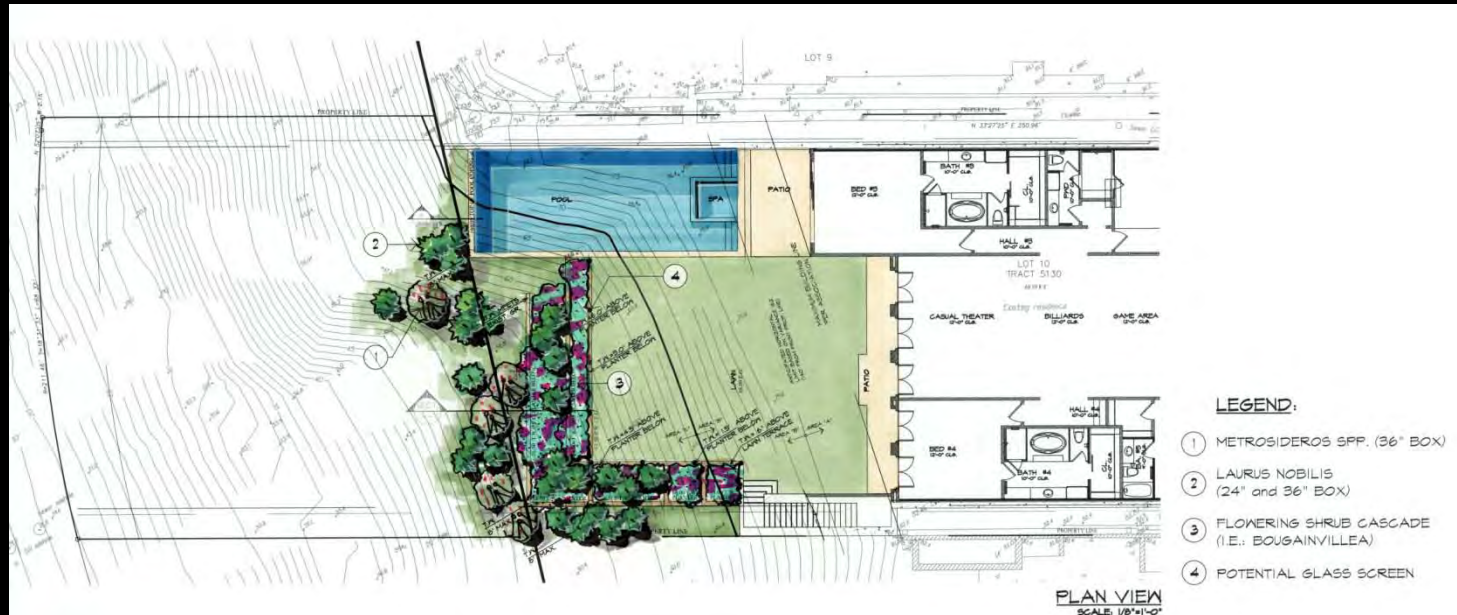
Topographic Map of Dolphin Terrace



TOPOGRAPHIC MAP OF DOLPHIN TERRACE

ADDITIONAL
MATERIALS
RECEIVED

Wardy Residence



Planning Commission
Public Hearing
January 3, 2013

STAFF PRESENTATION
PA2010-061



Vicinity Map



Project Overview



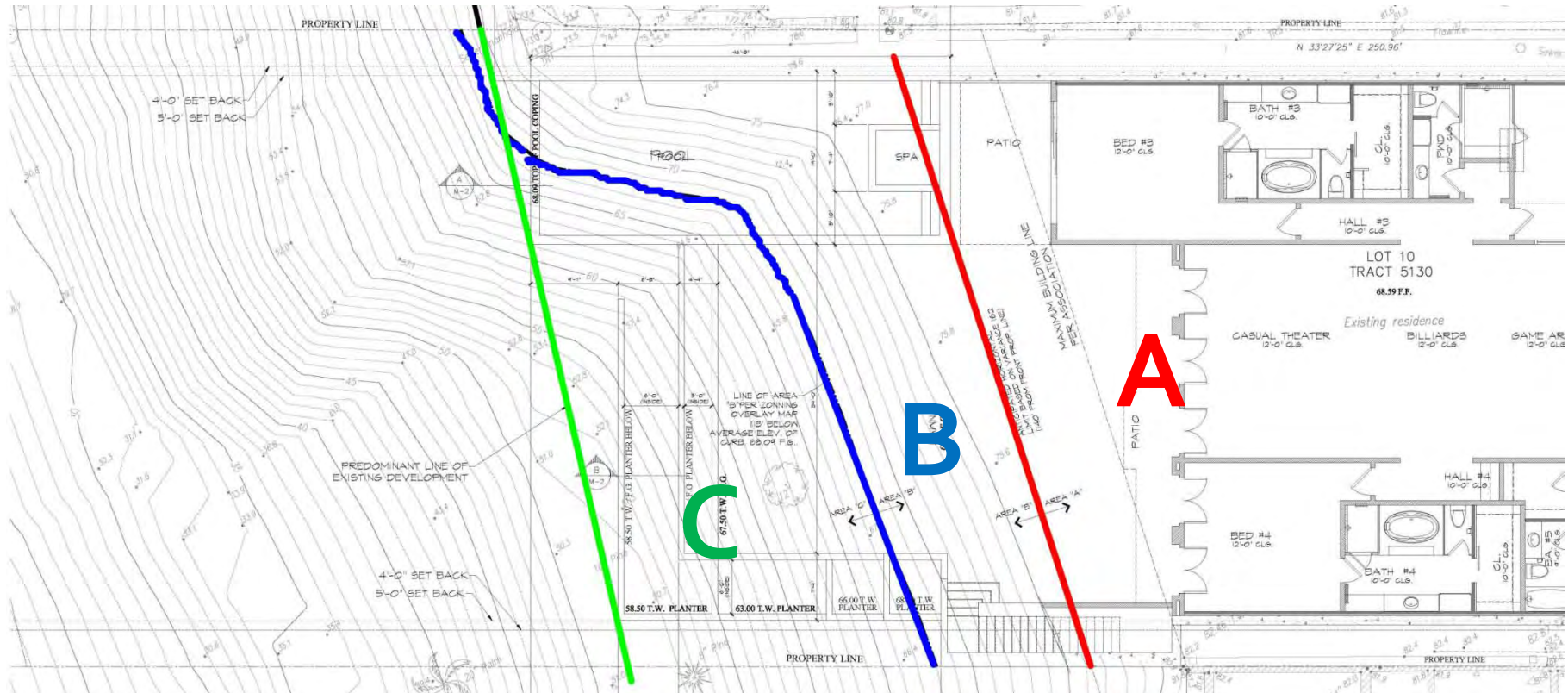
- Site Development Review
 - To allow an increase in the boundaries of Development Area B for the purpose of the construction of a pool and retaining walls in Development Area C

- Modification Permit
 - To allow a retaining wall over 8 feet in height from finished grade

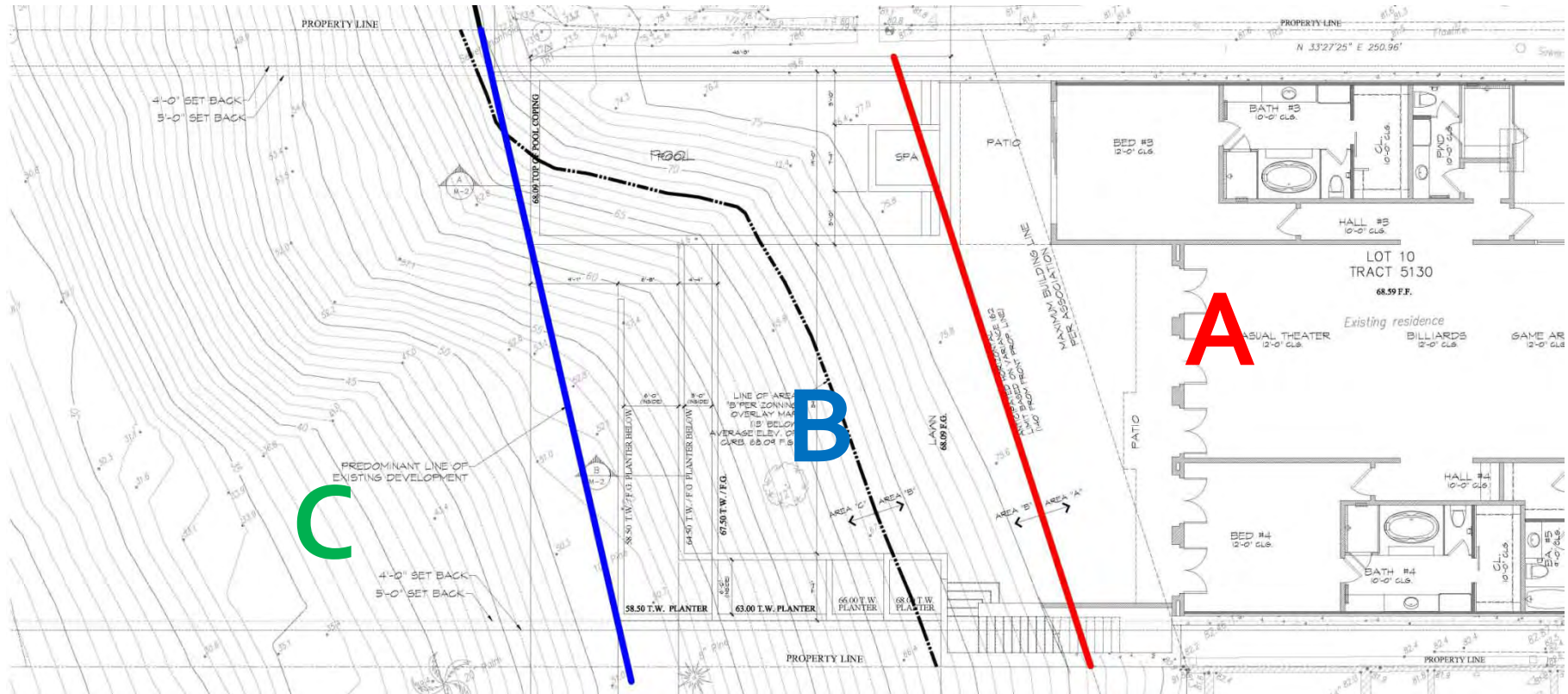
Proposed Improvements



Site Development Review



Site Development Review



Topographic Constraints

1938 Aerial



Topographic Constraints

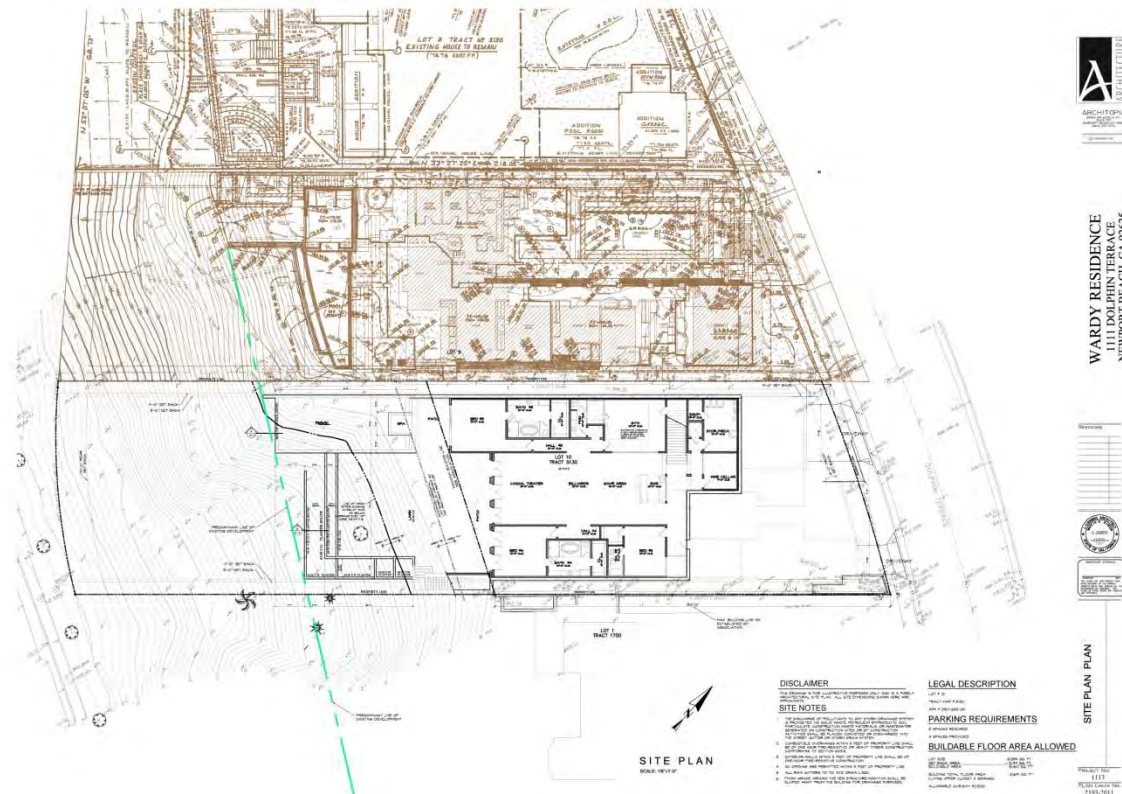
Current Topography



Current Aerial Photo



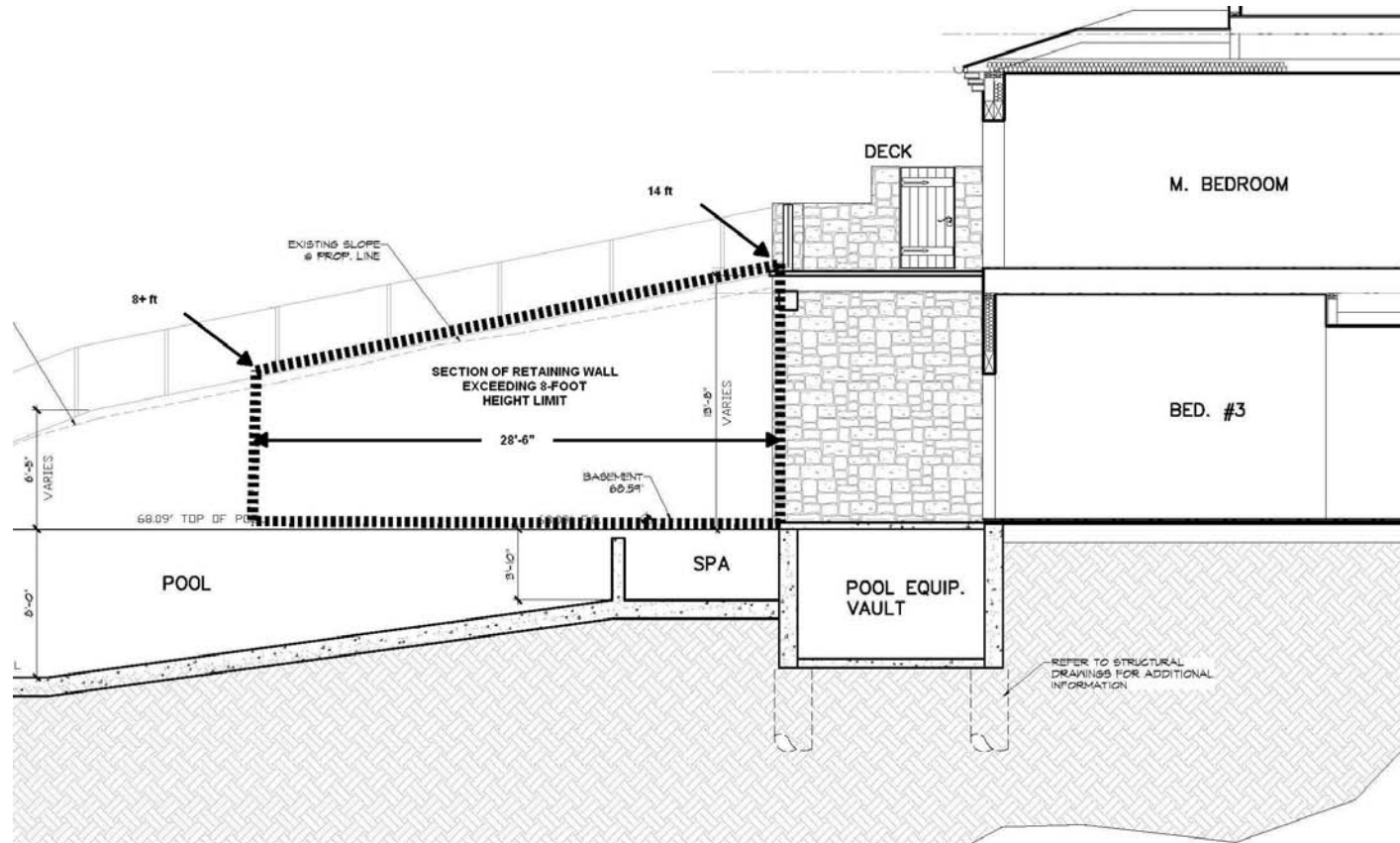
Line of Development



Proposed Improvements



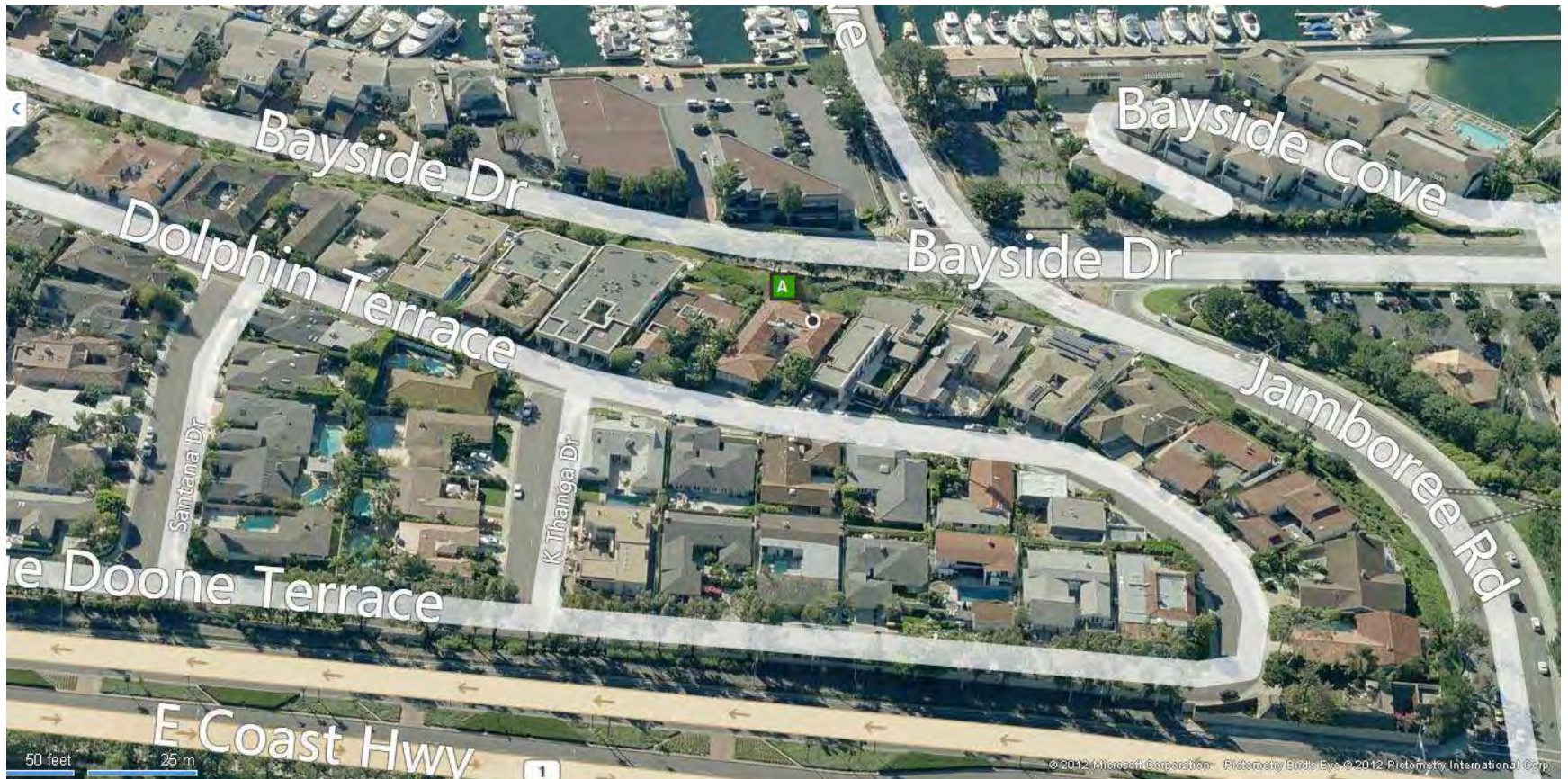
Modification Permit



Aerial Photos



Aerial Photos



Aerial Photos



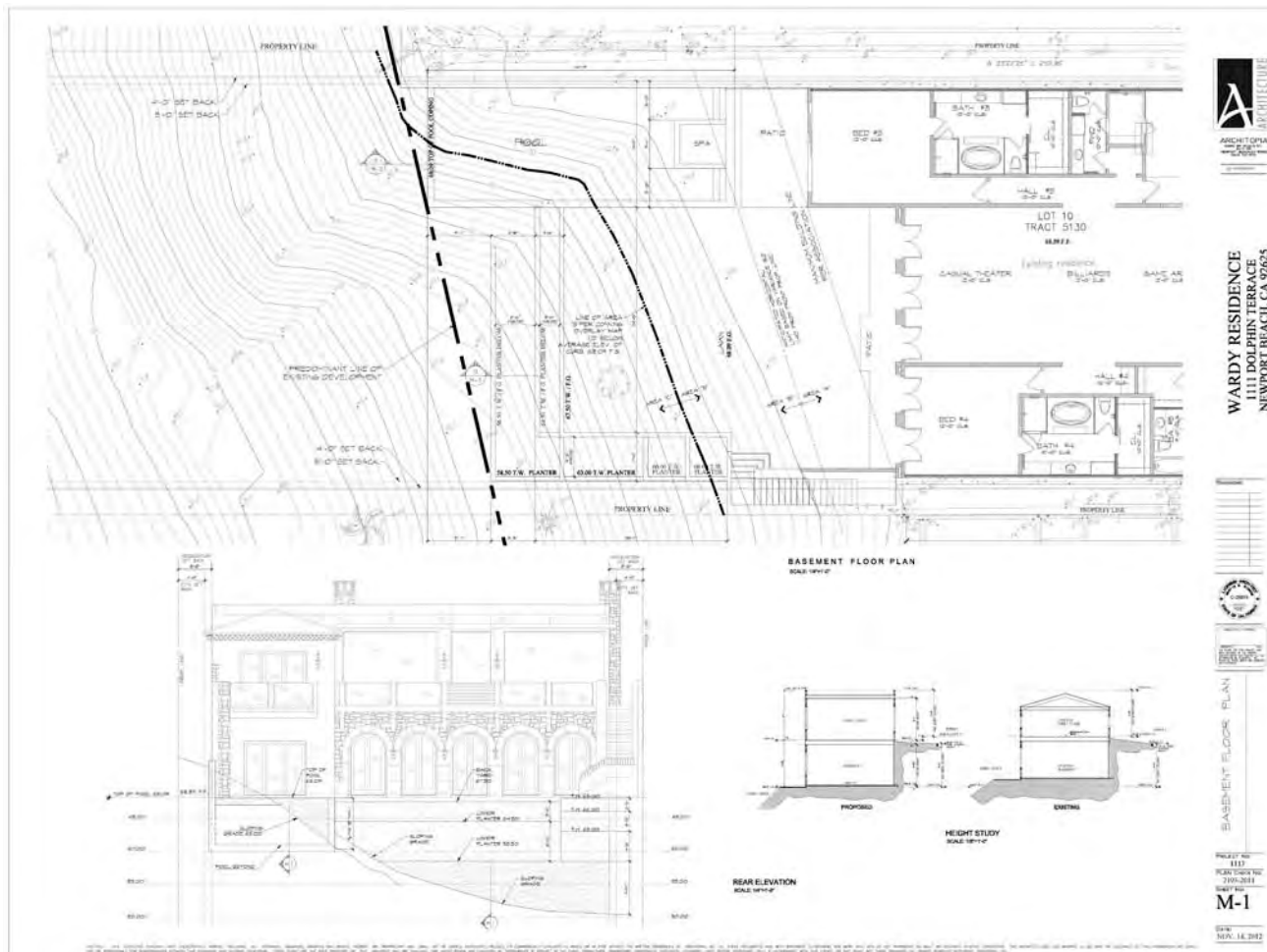
Aerial Photos



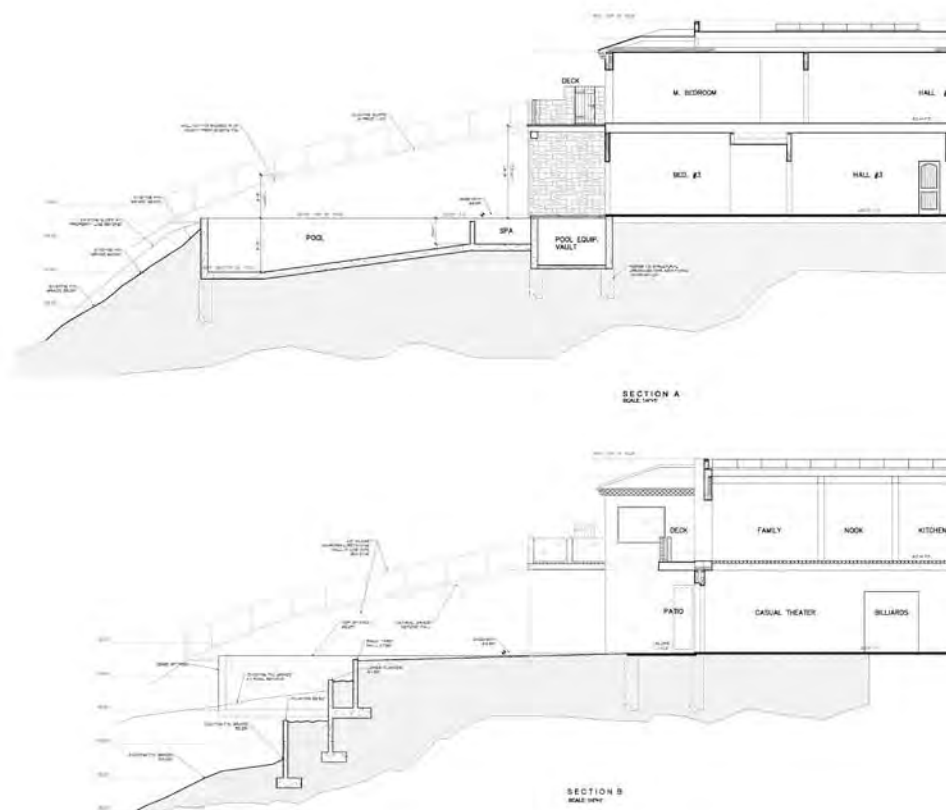
Project Plans



Project Plans



Project Plans



WARDY RESIDENCE
 1111 DOLPHIN TERRACE
 NEWPORT BEACH, CA 92625



BLDG SECTIONS A & B

PROJECT NO.
 1111
 DATE: 05/14/12
 DRAWN BY:
 M-2
 DATE: 05/14/2012

[illegible]

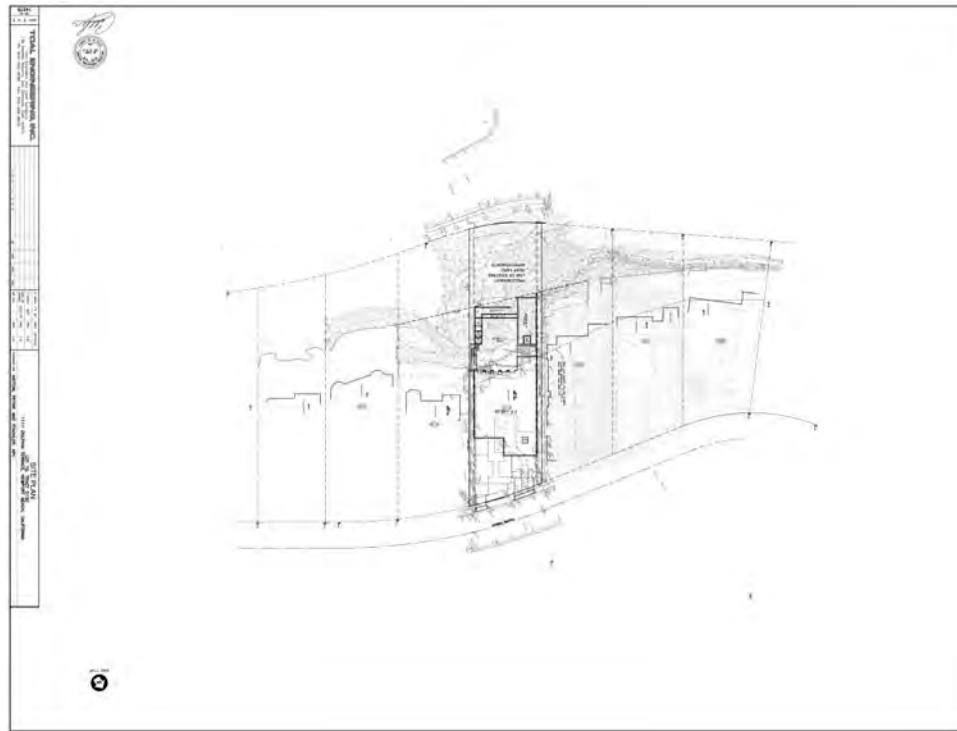
WARDY RESIDENCE
1111 DOLPHIN TERRACE
NEWPORT BEACH, CA 92625

[illegible]

SITE PLAN PLAN

Project No: 1113
 PLATE CANNOT BE
 2193-2011
 Sheet No:
M-S
 Date:
 NOV 14, 2012

Project Plans





For more information contact:

Patrick J. Alford
949-644-3235
PAlford@newportbeachca.gov
www.newportbeachca.gov

Item No. 3 Wardy Residence (PA2012-140)

The following comments are referenced to the handwritten page numbers in the 51 page PDF staff report.

Page 8: In describing the proposed shift in the (Area B)/(Area C) boundary, it would have seemed helpful to reference the drawing on page 30, which appears to illustrate the proposed change in an overhead view.

That drawing references a "Variance 162" which apparently set the (Area A)/(Area B) boundary for this lot 140' from the front property line, rather than requiring the "10-foot setback from the top of the existing bluff" specified for this area in Municipal Code Section 20.28.040.D.2.a.(1), and allowed the house itself to extend down the bluff into what would normally be the restricted Development Area C (that is, more than 13 feet below curb height).

I was also unable to find in the staff report any clear statement of what the curb elevation is, so that the proposal can be objectively compared to the normal standard on Irvine Terrace of setting the B/C boundary "*13 feet below the average elevation of the top of the curb adjacent to the lot*" per NBMC Section 20.28.040.D.2.a.(2). One of the captions in the illustration on page 30 indicates the approved 68.09 foot elevation lawn area is already 15 feet below the average curb elevation (the extra 2 feet possibly being part of Variance 162?), suggesting the latter is around 83 feet.

That illustration further suggests the proposed retaining walls (and therefore, the proposed Development Area B boundary) would extend down to an elevation of 51 feet, or 32 feet below curb height.

The above is difficult to reconcile with the statement on page 8 that "*The proposed adjustment would **shift** the Area B/Area C boundary up to 34 feet downslope*" unless that is referring to the horizontal shift (seen in the overhead view), rather than the vertical shift (seen in elevation). The vertical shift seems to be up to about 17 feet below the current 15 foot limit.

Page 9: I likewise find it difficult to accept staff's assertion that "*The proposed Area B/Area C boundary is consistent with the predominant line of existing accessory structure development on the adjacent properties.*" It seems consistent only when viewed from above. Assuming the intent of the Bluff Overlay restrictions is to prevent development from cascading down the slope beyond an elevation of 13 feet below curb height, and assuming the other properties have followed that standard, extending down 32 feet below curb height is **not** consistent with extending down 13 feet.

The main justification seems to be that this atypical, and normally unpermitted, encroachment down the bluff will be screened from view.

Page 12: The assertion that the excess-height retaining wall "*will not present a massive wall surface*" because it is perpendicular, not parallel, to Bayside Drive, surely depends on where on Bayside Drive one is looking from. Being perpendicular minimizes the problem, but doesn't eliminate it.

The staff report is unclear as to what “*negative impacts to the abutting property*” are avoid by topping the excess-height retaining wall “*with a 42-inch-high glass guardrail.*” I am guessing the planner has safety impacts in mind?

Page 17: In Section 1, statement 5 should say "2013" rather than "2012."

Page 18: The opening paragraph of Section 3 cites Municipal Code Section 20.28.040.I, whose title is “**Adjustment of development area boundary.**” I find nothing in the Resolution that clearly defines what adjustment to the boundary is being approved or where the new boundary will be.

The illustration on page 30 of the agenda packet shows what it claims to be the current (Area “B”)/(Area “C”) boundary (apparently following the 68.09 foot height contour), and a somewhat arbitrary heavy line (having nothing to do with elevation contours) labeled “Predominant Line of Existing Development.” I assume the intent of the Resolution is to move the “B/C” boundary for this one lot to that line, but I don’t find that clearly stated.

In Fact B-1, the word "that" seems unwanted, making the sentence ungrammatical, at least to me. I would suggest deleting it.

Page 19: Regarding Fact C-2, see previous comments. The proposed line is consistent with the existing line *only* when viewed from above. Also, *even* when viewed from above, the adjacent lot to the south (also in the ravine) does **not** appear to have developed out horizontally to this limit.

Page 19: In Fact I-1, the use of the word “*unique*” is confusing, making it sound like many (or all?) Irvine Terrace bluff-top properties have the same problem. I think you mean the topography of the project site is unique, in which case “*to other bluff properties in Irvine Terrace*” should be deleted. Alternatively you could delete “*unique*” and say the topography of the project site is *different from* (most) other bluff-top properties along Dolphin Terrace.

Page 22: In Fact K-2, the alternative would seem to be fill the area to the 13 foot below curb level elevation. I assume that would involve building a retaining wall parallel to Bayside Drive, would be detrimental to the stability of the existing slope, and would probably also require a modification permit.

~~**Item No. 4 Plaza Corona del Mar (PA2010-061)**~~

~~The following comments refer to the January 3, 2013 Staff Report, and the page references are to the handwritten numbers (or, equivalently, the pages in the 124 page PDF)~~

~~Although not relevant to the Commission’s current decisions, one of my main concerns with this project, to echo those expressed by Dan Purcell in the minutes of the December 6, 2012 hearing (page 90), is the vacation, without any compensation to the City, of the public alley easement at the rear of the Gallo’s Deli property. I have not researched the vacation in the 1990’s of the much larger segment that wrapped around the rear of the entire plaza, and~~

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

January 3, 2013 Meeting
Agenda Item 4

SUBJECT: Plaza Corona del Mar (PA2010-061)
SITE
LOCATION: 3900 and 3928 East Coast Highway
▪ Conditional Use Permit No. UP2012-011
▪ Modification Permit No. MD2012-011
▪ Site Development Review No. SD2012-001
▪ Tentative Tract Map No. NT2012-001
▪ Variance No. VA2012-002

APPLICANT: Marcelo E. Lische, Architect AIA
PLANNERS: Jaime Murillo, Associate Planner
(949) 644-3209, jmurillo@newportbeachca.gov

Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

PROJECT SUMMARY

The applicant is proposing to construct a horizontal mixed-use development that includes six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space, ground level parking lot. Requested applications include a site development review, a conditional use permit, a modification permit, a tentative tract map, and a variance.

The project was continued from the December 6, 2012, Planning Commission meeting to allow staff to re-notice the public hearing to include a potential waiver of one guest parking space for the residential component of the project and to include additional analysis related to the architectural design and construction of the project. This staff report supplements the December 6, 2012, Planning Commission staff report with the additional information requested by the Commission.

RECOMMENDED ACTION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ approving Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-007, (Attachment No. PC 1). This resolution does not include a waiver of the guest residential parking space, but rather maintains one van accessible parking space within the ground level parking lot for the exclusive use of guests of the residential component.

Additional conditions have also been included to address the shared parking configuration.

DISCUSSION

December 6, 2012, Planning Commission Meeting

The Planning Commission reviewed the project application on December 6, 2012, and voted to continue the project to January 3, 2013, to allow staff to re-notice the project to include a waiver of one guest parking space for the residential component of the project. The Planning Commission also requested additional information related to the architectural design and construction of the project. The Planning Commission minutes are included as Attachment No. PC 4. Public comment letters received prior to the meeting are included as Attachment No. PC 5.

Generally, the Planning Commission expressed the following concerns:

- The shared 10-space parking lot and trash enclosure have potential to create conflict between the residential and commercial users. The Commission ultimately requested staff return with a draft resolution that would consider a waiver of one residential guest parking space and limit the shared use of the parking lot (provided as Attachment No. PC 2).
- Requested additional details regarding the architectural style and material finishes of the proposed project to ensure quality design and compatibility with surrounding development.
- Questioned the need to maintain the existing Gallo's building under the proposed commercial office addition, rather than construct an entirely new building.

The following analysis responds to each of the Commission's concerns and includes additional information that was not available at the December 6, 2012, meeting.

Analysis

Waiver of Residential Guest Parking Space

The six-unit condominium development is required per the Zoning Code to provide three guest parking spaces. Two of the required guest spaces are proposed within the subterranean residential parking structure; the other required guest space is proposed within the adjacent 10-space shared ground level parking lot. As originally proposed, the spaces within the ground level parking lot were not signed or restricted to any one use.

To eliminate concerns with potential parking conflicts between residential and commercial users within the ground level parking lot, the Planning Commission discussed waiving one of the three required residential guest parking spaces for the six-

unit condominium development and restricting the full use of the parking lot for commercial users. The loss of this one guest parking space would be off-set by the fact that five on-street parking spaces would be maintained on East Coast Highway fronting the development, three of which would be newly created spaces.

Pursuant to the California Building Code, one required residential guest parking space must be van accessible for persons with disabilities. Additionally, an accessible path of travel to each of the residential units must be provided. This space is currently identified as Space No. 5 within the shared parking lot on the proposed plans. This accessible parking space cannot be waived as the project is currently designed. However, the Commission may consider the following alternatives:

1. Current Design, No Waiver: Approve the parking configuration as originally proposed. The accessible parking space shall be signed for the exclusive use for guests of the residential condominium development at all times. With regard to use of the remaining nine spaces, the Commission has the option of reserving the spaces for the exclusive use of the commercial users or allowing for a shared parking configuration during evening hours. Additional discussion pertaining to the shared use of parking lot is provided in the next section of this staff report. This alternative is provided in the alternative draft resolution included as Attachment No. PC 1.
2. Redesign of Residential Parking Garage; Waiver of One Space: Reduce the residential parking requirement to two guest parking spaces where three are required by the Zoning Code and require the applicant to redesign the subterranean parking structure level to provide a van accessible guest parking space in addition to one standard guest parking space. The addition of a shared accessible elevator would be required as would changes to the site design to accommodate the required ADA path of travel. This alternative is provided in the alternative draft resolution included as Attachment No. PC 2.
3. Redesign of Residential Parking Garage; No Waiver: Require the applicant to redesign the subterranean parking structure level to accommodate the required van accessible guest parking space in addition to the two standard guest spaces already provided along with a public elevator to the first level.

Both Alternative Nos. 2 and 3 would require a significant redesign of the proposed subterranean parking structure and main level to accommodate the public elevator access. According to the applicant, both options are cost prohibitive and required parking is readily available on the property within the ground level parking lot. Given the size of the lot, current configuration of the subterranean parking structure, access ramp, and private elevator access to each unit, a redesign to include a van accessible space, path of travel, and an accessible elevator within the subterranean parking structure would require additional site design changes, both in the parking structure and to the above grade location of the homes.

Staff recommends the first alternative identified above. The required parking for the residential units would be provided at 3928 East Coast Highway and signage could be added to enforce the use of the parking space for residential guests only.

Shared Use of Ground Level Parking Lot

Although the Planning Commission expressed concerns with the shared use of the ground level parking lot, staff believes the shared parking arrangement offers a unique opportunity to maximize use of available parking in Corona del Mar, which is often identified as a constrained parking area. Shared parking would allow the efficient use parking spaces that would be available to residents during evening hours when the proposed office uses are closed. This is especially useful for guest parking in the evening when parking demand may exceed available on-site or street spaces. With additional conditions and proper signage, staff believes shared use of the parking lot can operate with minimal conflict.

Staff suggests allowing the commercial users to park exclusively within the ground level parking spaces (excluding the accessible residential guest space) between the hours of 8:00 a.m. and 6:00 p.m., daily. No restrictions to the residential use of the parking would be imposed between the hours of 6:00 p.m. and 8:00 a.m., daily. Condition Nos. 17, 18, and 19 are included to this effect in the draft resolution for approval recommended by staff as Attachment No. PC 1.

Architectural Design and Compatibility

According to the applicant, the project is designed in a soft contemporary architectural style. To better illustrate the architectural design of the proposed project, the applicant has incorporated additional notes on the exterior elevations of the project plans to identify materials and finishes for the new commercial structure and residential units (see Sheets A-5 and A-6 of Attachment No. PC 7).

Finishes include the use of horizontal wood cedar siding that encompasses the vertical elevator tower and horizontal banding around the office addition. This same wood siding would be utilized in a similar treatment of the residential chimneys and on the residential balconies along with tempered glass. The remainder of each façade for both the commercial and residential components would provide a smooth stucco finish to reflect a consistent finish across the entire project site. The project would be painted with a unifying warm color palette to maintain continuity, while each of the commercial and residential components would be painted separate colors to convey the individual character and use of each structure.

Colored renderings and a materials board demonstrating proposed colors and architectural finishes for the project will be provided by the applicant prior to the public hearing.

Retention of Existing Gallo's during Construction

To clarify information provided at the prior Planning Commission meeting, preservation of the existing structure is not required in order to maintain the vested land use rights under the existing Specialty Food Permit. The applicant is proposing to maintain the existing structure for personal business and historical reasons. Refer to the applicant's description and justification, provided as Attachment No. PC 6. The applicant is seeking to keep Gallo's open during construction to maintain an on-going client base. Further, the applicant believes that the existing structure is a nostalgic component of Old Corona del Mar that should not be changed or altered significantly. The exterior of the structure will be painted and finished in smooth stucco with new dual-glazed aluminum windows to match the commercial addition and appear as a unified structure. However, the applicant is proposing to utilize a similar blue awning as a character-defining feature to retain the nostalgic look of Gallo's and identify the Gallo's brand.

Additionally, the Planning Commission inquired to the feasibility of constructing the proposed commercial addition as a separate structure above the existing delicatessen. The building over Gallo's will be a steel frame superstructure with independent footings, columns and beams from the existing building. Building Division staff has reviewed the project plans and determined that the proposed scope of work is structurally feasible. Staff is not opposed to the construction of an entirely new structure for the delicatessen so long as the new gross floor area, total seating, and outdoor dining patio area are consistent with the conditions specified in the Specialty Food Permit.

Summary

Staff recommends that the Planning Commission approve the project as currently designed. During the day, the ground level parking lot will be available for the exclusive use of the commercial tenants (with the retention of one van accessible residential guest space). During evening hours, the shared parking arrangement offers an opportunity to efficiently utilize parking spaces that would be available when the proposed office uses are closed.

Overall, the proposed project would result in the redevelopment of an under-utilized and aging commercial lot with a new office addition that implements the goals and policies for the development of the commercial corridor of Corona del Mar. The project would also result in the redevelopment of a vacant lot that was specifically re-designated for residential use as part of the 2006 General Plan Update to encourage its redevelopment.

Public Notice

The public hearing notice for this item was revised to include a parking waiver of one residential guest parking space as a component of the conditional use permit. The revised notice was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this

hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Alternatives

Staff believes that the findings for approval can be made for the proposed project as recommended and the facts in support of the required findings are presented in the draft resolution (Attachment No. PC 1). The following alternatives are available to the Planning Commission:

1. The Planning Commission may approve the alternative draft resolution provided as Attachment No. PC 2, which incorporates facts in support of findings to waive one residential guest parking space for the residential component of the project. Conditions of approval have been included requiring the subterranean parking structure to be redesigned to accommodate a van accessible guest parking space and publicly accessible elevator to the main level of the project. Final approval of the architectural design of the residential development will be subject to review by the Community Development Director to ensure substantial conformance with the approved design.
2. The Planning Commission may suggest specific changes that are necessary to alleviate any concerns. If any additional requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.
3. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission may deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 3).

Prepared by:

Submitted by:


Jaime Murillo
Associate Planner


Brenda Wisneski, AICP, Deputy Director


Makana Nova
Assistant Planner

ATTACHMENTS

- PC 1 Draft Resolution of Approval with Findings and Conditions
- PC 2 Alternative Draft Resolution of Approval with Findings and Conditions
- PC 3 Draft Resolution for Denial
- PC 4 Planning Commission Minutes- December 6, 2012
- PC 5 Public Comment Letters
- PC 6 Applicant's Description and Justification
- PC 7 Project Plans

Attachment No. PC 1

Draft Resolution of Approval with
Findings and Conditions

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. UP2012-011, MODIFICATION PERMIT NO. MD2012-011, SITE DEVELOPMENT REVIEW NO. SD2012-001, TENTATIVE TRACT MAP NO. NT2012-001, AND VARIANCE NO. VA2012-002 FOR THE CONSTRUCTION OF A 2,160-SQUARE-FOOT COMMERCIAL OFFICE ADDITION AND SIX DWELLING UNITS LOCATED AT 3900 AND 3928 EAST COAST HIGHWAY (PA2010-061)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Marcelo E. Lische, architect representing property owner, Magdi Hanna, with respect to property located at 3900 and 3928 East Coast Highway, and legally described as Lots 54, 55, 56, 57, 58, and portions of abandoned alley, Block B, Tract No. 673, requesting approval of a site development review, conditional use permit, modification permit, tentative tract map, and variance.
2. The project includes a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared, ground level parking lot. The following approvals are requested or required in order to implement the project as proposed:
 - a. A site development review to ensure compatibility with the site and surrounding land uses.
 - b. A conditional use permit to allow parking for nonresidential uses in a residential zoning district and to allow off-site parking.
 - c. A modification permit to allow a retaining wall up to 17 feet 2 inches in height, where the Zoning Code limits the height to 8 feet.
 - d. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area, where a 20-foot setback is currently required.
 - e. A tentative tract map for condominium purposes and to consolidate five lots and portions of a vacated alley into two lots.
3. The subject property at 3900 East Coast Highway is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).

4. The subject property at 3928 East Coast Highway is located within the Multiple-Unit Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple-Unit Residential (RM).
5. The subject properties are not located within the coastal zone.
6. A public hearing was held on December 6, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting. The Planning Commission voted to continue the item to the January 3, 2013 meeting.
- 6-7. A public hearing was held on January 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 32 (Infill Development Projects). This exemption applies to in-fill development projects in urban areas that are consistent with the General Plan and applicable development standards. In addition, the proposed development must occur on a site of no more than five acres, have no value as habitat for endangered, rare or threatened species, be adequately served by all utilities and public services, and must not result in any significant effects relating to traffic, air quality, water quality, or any other significant effect on the environment due to an unusual circumstance.
2. An analysis and exemption determination was prepared for this project. CEQA Class 32 consists of projects characterized as in-fill development meeting the conditions described above. The proposed project consists of the development of new commercial office space with required off-street parking and six detached dwelling units and is consistent with the City's General Plan land use designations (Corridor Commercial and Multiple-Unit Residential) and zoning designations. Potential development of the project site was considered and analyzed in the City's 2006 General Plan EIR for potential environmental impacts. Based on that analysis, there is no reasonable probability that the proposed project will have a significant effect on the environment due to unusual circumstances, nor will the project result in any short-term or long-term impacts that were not previously considered in the Newport Beach General Plan and General Plan EIR. Implementation of the proposed project will not result in any adverse effects on sensitive biological resources, traffic, air quality, noise or water quality. The project site does not exceed five acres in area, is located in an urban area, and can be adequately served by all required utilities and public services.

Therefore, the proposed project meets all of the conditions described above for in-fill development and qualifies for a Class 32 exemption.

SECTION 3. REQUIRED FINDINGS.

Site Development Review

1. A site development review is required for the construction of five or more residential units processed in conjunction with a tentative tract map. Also, because the proposed project is essentially a mixed-use development with horizontal inter-mixing of residential and commercial uses and a shared parking lot, the site development review analyzes the project as a whole for compatibility with the site and surrounding land uses. In accordance with Section 20.52.080 (Site Development Review) of the Zoning Code, the Planning Commission must also make the following findings for approval of a site development review:

Finding:

- A. *Allowed within the subject zoning district;*

Facts in Support of Finding:

- A-1. The zoning designation for the commercial component at 3900 East Coast Highway is Commercial Corridor (CC), which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. A commercial building with retail, office, and restaurant uses are permitted for the commercial component of the proposed project at 3900 East Coast Highway. The existing food use (Gallo's Deli) was previously permitted through Specialty Food Permit No. 38 and would continue operating under said permit.
- A-2. The zoning designation for the residential component at 3928 East Coast Highway is Multiple-Unit Residential (RM, 8 DU), which is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units. The site is limited to a maximum of eight dwelling units. The proposed project consists of the development of six detached dwelling units, which is consistent with the zoning designation of the site.
- A-3. The subject property is not part of a specific plan area.

Finding:

- B. *In compliance with all of the applicable criteria [below]:*
 - a. *Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*

- b. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;*
- c. The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
- d. The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
- e. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
- f. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections); and*

Facts in Support of Finding:

- Ba-1. The proposed detached residential condominiums are permitted uses within the RM General Plan land use designation and zoning district. The commercial component of the project would consist of a general office and food use, which are permitted uses within the CC General Plan land use designation and zoning district. The food use is an existing use which would continue operating under Specialty Food Permit No. 38.
- Ba-2 As required by the Zoning Code, a conditional use permit has been requested for the commercial off-site parking arrangement on the residential lot, a variance has been requested to establish a 15-foot front setback for the purposes of setbacks and buildable area for the residential component, and a modification permit has been requested to allow for the proposed height of the retaining wall.
- Ba-3. The size, density, and character of the proposed residential dwelling units complement the existing land uses in the project area and include design elements consistent with Land Use Element Policy 5.1.9 (Character and Quality of Multi-Family Residential) that requires multi-family dwellings to be designed to convey a high quality architectural character. Consistent with this policy, the architectural treatment of the building includes high quality finishes and modulation of mass to convey the character of separate living units and avoiding the appearance of a singular building volume. The roofs have been designed with inverted sloping planes to provide visual interest. Significant private open space would also be provided in the form of large balconies, yard areas, and further complemented with additional common recreational open space area to provide a pleasant living environment with opportunities for recreation.

- Ba-4. The General Plan also includes Policy LU 6.20.1 that encourages neighborhood serving uses that complement existing development. Policy 6.20.3 encourages the redevelopment of residential parcels immediately adjoining commercial uses that front onto Coast Highway for surface parking. The proposed project requests a shared parking arrangement that is consistent with the policy overview for the Corona Del Mar corridor.
- Bb-1. The residential and commercial components of the project are integrated as a unified development through the use of similar architectural style and design elements, shared use of parking, and internal pedestrian connectivity.
- Bb-2. The proposed office addition above the existing food use has been designed to improve the aesthetics of the site and improve the commercial presence and interface on East Coast Highway.
- Bb-3. Due to the approximate 17-foot grade differential between the project site and the existing residential property to the rear at 408 Hazel Drive and 10-foot 7-inch separation from the commercial addition to the residential property line, the residential property will not be negatively impacted by the project and will maintain increased privacy and open space.
- Bb-4. Consistent with General Plan Policy LU 6.20.3 and the Policy Overview for Corona del Mar, to facilitate redevelopment of the commercial lot, parking spaces required for the office addition would primarily be accommodated on the adjacent residential lot. During the evening, the parking spaces would also serve as an area for provide one guest additional parking space opportunities for the residential development. This shared parking arrangement provides flexibility to accommodate the varying peak parking demands of the commercial and residential uses, efficiently utilizes the site to maximize the number of spaces that can be provided on-site, and serves as a buffer between the proposed residential units and expanded commercial building.
- Bb-5. The residential component of the project has been designed as six detached units above grade, minimizing the bulk and mass of the project and provides for increased open space, light, and air for each unit. Below grade, the project has been designed to efficiently accommodate private garages and guest parking within a single subterranean parking structure.
- Bb-6. The mechanical equipment enclosure for the commercial building has been located approximately 29 feet away from the adjacent residential lot to the rear and approximately 57 feet from the proposed residential units to the west to reduce noise impacts, and would be screened within an equipment enclosure.
- Bb-7. Both the commercial and residential components of the project provide separate and well-defined entries.

-
- Bc-1. The unified design theme of the commercial and residential component of the project provides for an architectural transition between the residential uses that front East Coast Highway to the east and the commercial corridor that begins to the west.
- Bc-2. The height and bulk of the proposed commercial building are consistent in scale with the commercial building to the west that has roof top parking. The commercial building would also be setback 10 feet 7 inches to the existing residential property line located to the rear and due to the difference in grade (approx. 17 feet), the visual bulk of the building would be minimized when viewed from above.
- Bc-3. The proposed commercial building fronts East Coast Highway, thereby implementing the General Plan policies to foster pedestrian activity with the Corona del Mar commercial corridor.
- Bc-4. The front façade of the commercial building includes both vertical and horizontal off-sets and utilizes a variation of building materials to provide enhanced visual relief.
- Bc-5. The proposed residential units have been designed with horizontal off-sets and variation in roof heights to provide visual interest. In addition, the massing of the units is broken up by the varying building separation.
- Bc-6. The height, bulk, and scale of the residential units are consistent with the adjacent residential condominium complex to the east.
- Bc-7. The shared ground level parking lot provides a buffer between the proposed commercial and residential uses and is designed to maintain privacy for the residential tenants and protection from vehicular impacts.
- Bd-1. The project would consolidate the three existing driveways along East Coast Highway into two driveways, thereby reducing potential conflicts and increasing vehicular safety.
- Bd-2. The consolidation of driveways also increases the number of on-street parking spaces along the project frontage from two spaces to a total of five spaces (three new spaces).
- Bd-3. The residential component includes separate and independent access via the easterly driveway into a subterranean parking structure. Furthermore, each residential unit would be afforded a private enclosed garage with direct interior access to their units.
- Bd-4. The project results in a total peak parking requirement of 24 ground level spaces (nine spaces for the commercial office floor area, 12 residential parking spaces, and three residential guest parking spaces), which can be provided

entirely on-site within the 14-space subterranean parking lot and the 10-space ground level parking lot.

- Bd-5. The existing specialty food use was approved under Specialty Food Permit No. 38 without any required parking and will continue to operate as a vested land use right.
- Bd-6. The 10-space ground level parking lot would be accessed via the westerly driveway and would accommodate parking for the commercial uses and guests of the residential units. The shared parking arrangement allows for flexibility for use of the parking spaces during the varying peak parking demands of the commercial and residential uses.
- Bd-7. The proposed ground level parking lot has been designed to accommodate and provide safe access for emergency, delivery, and refuse collections vehicles, as determined by the City Traffic Engineer.
- Bd-8. The project provides adequate sight distance at each driveway, as determined by the City Traffic Engineer.
- Bd-9. The project would include enhanced pedestrian walkways that provide access between the various uses and within the project site, and to the surrounding public sidewalks and uses.
- Be-1. The residential component includes the enhanced use of landscaping, including a variation of ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the condominium units from the commercial uses to the west, residential uses to east, and from East Coast Highway.
- Be-2. The shared parking lot complies with the landscape parking lot requirements of Newport Beach Municipal Code (NBMC) Sec. 20.40.070.D.3 (Landscaping) and includes adequate and effective use of ground cover, hedges, and shade trees. The parking lot is also screened from East Coast Highway by a 5-foot-wide planter.
- Be-3. A six-foot-high block wall and row of columnar trees would be provided between the residential units and the shared parking to provide a screening buffer.
- Be-4. The project is subject to the City's Water Efficient Landscape Ordinance (Chapter 14.17 of NBMC).
- Be-5. The relocated outdoor dining area of the existing food use will be better defined for compliance with the condition of Specialty Food Permit No. 38 through the use of planter boxes, which will also improve the appearance of the site.
- Be-6. The proposed residential development includes a large common outdoor living area of 533 square feet that includes a spa and barbeque area. In addition,

each unit is afforded private outdoor living space in the form of large balconies and/or private yard areas.

- Bf-1. The portion of East Coast Highway, on which the project is located, is not a designated coastal view road and is not considered a public view corridor.

Finding:

- C. *The proposed development is not detrimental to the harmonious and orderly growth of the City, or endanger jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

- C-1. The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents.
- C-2. The project's trash enclosure would be shared between the residential and commercial component, and would be located at the rear of the commercial lot. The size, design, location, and screening of the refuse enclosure comply with the requirements of NBMC Sec. 20.30.120 ensuring compatibility with the on-site and adjacent uses. Adequate access to refuse containers would be provided through the shared parking lot and noise and visual impacts to the adjacent residential use to the rear would be minimized due to the retaining wall, differences in grade, and landscaping.
- C-3. The project is subject to the City's Outdoor Lighting requirements contained with Section 20.30.070 of the Zoning Code.
- C-4. The relocated 125-square-foot outdoor dining area of the existing food use would be covered by the office addition above and would be screened and noise attenuated from the existing adjacent residential use to the rear due to the difference in grade.
- C-5. The specialty food use and the proposed general office would not maintain late hours as defined by the Zoning Code to be later than 11:00 p.m.
- C-6. Roof-top mechanical equipment would be fully enclosed within an equipment screen and would not be visible from the residences above. The rooftop mechanical equipment enclosure has been located at the center of the commercial building to minimize the bulk of the building as viewed from East Coast Highway.

- C-7. Tenant improvements to the new commercial component of the development will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Conditional Use Permit – General Findings

2. A conditional use permit is requested to allow off-site parking for the commercial development at 3900 East Coast Highway to be located on the adjacent residential property at 3928 East Coast Highway. In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a conditional use permit are set forth:

Finding

- A. *The use is consistent with the General Plan and any applicable specific plan:*

Facts in Support of Finding

- A-1. The proposed detached residential condominiums are consistent with the RM General Plan Land Use Element designation.
- A-2. The proposed general office and food uses within the commercial component are consistent with the CC General Plan land use designation.
- A-3. Land Use Policy LU6.20.3 (Expanded Parking) for Corona Del Mar seeks to accommodate the redevelopment of residential parcels immediately adjoining commercial uses that front onto Coast Highway for ground level parking, provided that adequate buffers are incorporated to prevent impacts on adjoining residential uses. The proposed project requests a shared parking orientation that is consistent with the policy overview for the Corona Del Mar corridor. Adequate walls and landscape buffers will be provided to clearly delineate the change of uses along the Coast Highway frontage.
- A-4. The subject properties are not part of a specific plan area.

Finding

- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code:*

Facts in Support of Finding

- B-1. The proposed detached residential condominiums are permitted uses within the RM zoning district.
- B-2. The proposed general office and food uses within the commercial component are consistent with the CC zoning district.

- B-3. The required number of parking spaces to accommodate the new commercial development will be provided in a shared parking situation across the commercial property and the adjacent residential property at 3928 East Coast Highway. The proposed parking lot complies with the requirements as provided in Section 20.40.080 (Parking for Nonresidential Uses in Residential Zoning Districts), which requires the parking area to be designed to be compatible with and to not fragment the adjacent neighborhood, located within a reasonable walking distance to the use it is intended to serve, and to not be detrimental or injurious to property and improvements in the neighborhood.

Finding

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity:*

Facts in Support of Finding

- C-1. All of the required parking for the additional commercial development would be provided within close proximity and in an accessible manner for patrons at 3900 East Coast Highway.
- C-3. The shared parking lot is primarily intended to serve the parking demands of the proposed commercial office floor area; however, parking will be unrestricted [in the evenings](#) so as to allow for [additional parking opportunities](#) ~~shared parking with the existing food use and guest parking~~ for the residential component.
- C-4. The residential users will have direct access to the commercial site and parking lot through a secured gate, but would be adequately buffered from the parking lot activity by solid 6-foot-high block walls, landscaping buffers, and minimal windows designed facing the parking lot.
- C-5. The project has been reviewed and found to be compliant with the parking area requirements and landscaping standards as provided in Section 20.40.070 (Development Standards for Parking Areas) and the outdoor lighting standards in Section 20.30.070 (Outdoor Lighting).

Finding

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities:*

Facts in Support of Finding

- D-1. The proposed parking lot provides adequate vehicle circulation and parking spaces for patrons.

- D-2. Adequate public and emergency vehicle access, public services, and utilities are provided.
- D-3. The development of the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- E-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.
- E-2. The proposed commercial and residential development will serve the surrounding residential and retail community. This will revitalize the project site and provide an economic opportunity for the property owner to improve the visual character of East Coast Highway, a major thoroughfare through Corona Del Mar.

Conditional Use Permit- Additional Findings for Off-Site Parking

- 3. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site also requires the approval of a conditional use permit. In addition to the standard conditional use permit findings, approval of off-site parking is subject to specific findings. The following findings and facts in support of such findings are set forth:

Finding

- A. *The parking facility is located within a convenient distance to the use it is intended to serve.*

Facts in Support of Finding

- A-1. The off-site parking lot, located immediately adjacent to the subject property, is essentially on-site.

Finding

- B *On-street parking is not being counted towards meeting parking requirements.*

Facts in Support of Finding

- B-1. The nine parking spaces required to accommodate the additional commercial development are provided entirely within the parking lot.
- B-2. The enhancement of public improvements and parking are identified as an opportunity for change within Land Use Policy LU3.3 of the General Plan. The proposed project would close an existing driveway on 3928 East Coast Highway and provide additional on-street parking available to the public.

Finding

- C *Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.*

Facts in Support of Finding

- C-1. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area.
- C-2. The design consolidates three driveways into two driveways, thereby reducing potential conflicts and increasing vehicular safety along East Coast Highway.

Finding

- D *The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

Facts in Support of Finding

- D1. Both of the commercial and residential components of the project site are currently owned in common across six legal lots. The proposed tract map would result in two new lots with commercial development on one and the six-unit residential condominiums on the second. As a condition of approval, the homeowner's association for the condominium development and the property owner of the commercial property will be required to enter into a reciprocal parking agreement for the joint use of the 10-space ground level parking lot; therefore, the parking facility will remain available, marked, and maintained as intended.

Modification Permit

- 4. A modification permit is requested to allow construction of a retaining wall at a maximum height of 17 feet 2 inches from the finished grade that is located at the northwesterly corner of the lot located at 3900 East Coast Highway, where the Zoning

Code limits the height to 8 feet maximum. An increase in height of a retaining wall may be requested per Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the Zoning Code. In accordance with Section 20.52.050 (Modification Permits), the Planning Commission must also make the following findings for approval of a modification permit:

Finding:

- A. *The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

- A-1. The view of the new retaining wall from East Coast Highway will be partially shielded by the second floor of the proposed commercial development.
- A-2. To minimize the massing and visual impact of the wall to the on-site users, a planter wall and trash enclosure is proposed to be located in front of the retaining wall and to improve its overall aesthetics.

Finding:

- B. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

- B-1. The proposed commercial lot is constrained due to size and the steepness of the slope at northwesterly corner of the lot.
- B-2. The commercial lot is currently developed with a food use and the proposed development includes additional commercial office construction that would maximize the development potential identified by the General Plan floor area limit (0.75 FAR). The proposed retaining wall would accommodate the proposed development and make sufficient useable area available to provide required on-site parking for the new commercial office development.

Finding:

- C. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Facts in Support of Finding:

- C-1. Zoning Code regulations allow retaining walls at a maximum height of 8 feet with a minimum separation requirement of 6 feet between walls. Due to the topography of the project site, the construction of two terraced retaining walls that comply with this standard would result in a significant loss of site area necessary to provide on-site parking, vehicular circulation, and a trash enclosure for the new commercial development

Finding:

- D. *There are no alternatives to the Modification Permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

- D-1. Without this approval, the applicant would be required to construct a series of 8-foot retaining walls with a 6-foot separation between walls. This would result in a significant loss of project site area that is necessary to provide required on-site parking for the proposed use.
- D-2. A terraced design that provides the required separation would not be less detrimental to existing residential property located to the rear at 408 Hazel Drive because they would not be able to see the face of the retaining wall from their vantage point due to the grade differential. Also, since the retaining wall is partially screened as viewed from East Coast Highway, the terraced design would not be readily visible from the public.
- D-3. The location of the retaining wall, at the rear of the subject property is appropriate given the proposed retaining wall would be adequately screened from the adjacent right-of-way. The retaining wall will provide a planter wall and trash enclosure in front of it to provide variation and articulation to improve the visual aesthetic of the retaining wall, consistent with the intent of the wall separation requirement.

Finding:

- E. *The granting of the modification would not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Facts in Support of Finding:

- E-1. The proposed retaining wall would provide a wrought iron guardrail for safety on the higher side of the property on the adjacent commercial and residential properties.
- E-2. The highest point of the retaining wall is near the northwest corner of the lot and is screened by the proposed commercial building as viewed from Coast Highway. Also, the retaining wall drops approximately 8 feet over a distance of 16 feet 6 inches, minimizing the height of the wall as the existing grade drops so that the visual impact of the wall is reduced.
- E-3. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development. The portion of the property at 3900 East Coast Highway where the retaining wall is proposed was previously an alley that has recently been vacated by the City and granted to the property owner of 3900 East Coast Highway.

Variance

- 5. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area where a 20-foot setback is required. In accordance with Section 20.52.090.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of a variance are set forth:

Finding:

- A. *That there are special or unique circumstances or conditions applicable to the subject property (e.g. location, shape, size, surrounding, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

Facts in Support of Finding:

- A-1. The subject property is a wide (approx. 165 feet), but shallow lot (approx. 91 feet). The shallowness of the lot creates a design constraint for developing the site to its maximum allowed density of eight dwelling units, while still providing for required parking, vehicular circulation, open space, and the required setbacks. Due to these constraints, the applicant is only proposing to develop a total of six dwelling units but is requesting the ability to encroach 5 feet into the front 20-foot setback, similar to other developed RM lots in the vicinity.
- A-2. A 20-foot setback, corresponding buildable area, and resulting floor area limit are not appropriate for this property based on a review of the development pattern of adjacent multi-unit residential developments east of the project site that also front onto East Coast Highway.

Finding:

- B. *That strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

Facts in Support of Finding:

- B-1. Immediately to the east of the subject property is a large 18-unit residential condominium complex (401 Seaward Rd.) that maintains a 15-foot front setback adjacent to East Coast Highway and to Seaward Road. This property is located on a one acre lot and is permitted a much larger floor area limit of 1.75 (instead of 1.5).
- B-2. Further east are several RM-6000 zoned lots (4104-4348 Shorecrest Ln.) that also maintain 15-foot front setbacks adjacent to East Coast Highway. These lots are not subject to a floor area limit ratio, but rather are limited to a 60 percent maximum lot coverage requirement.
- B-3. The setbacks and allowed floor area for nearby multi-unit developments are more permissive than what the subject property is limited to. Therefore, strict compliance with the 20-foot front setback and resulting floor area limit would deprive the subject property of privileges enjoyed by nearby RM lots.
- B-4. Granting of the variance would allow the applicant to develop a multi-unit residential development utilizing similar setbacks and to a more reasonable floor area limit consistent with other multi-unit residential developments in the area.

Finding:

- C. *That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

- C-1. The 18-unit condominium complex to the east is located on a larger one acre lot and is permitted a larger floor area limit of 1.75 times the buildable area (instead of 1.5). If the subject property were allowed a similar 1.75 floor area limit, the floor area limit would be 14,719 square feet, which is larger than the 13,703 square feet proposed. Also, the RM-6000 zoned lots further east are not subject to a floor area limit ratio, but rather are regulated by a 60 percent maximum lot coverage requirement. For comparison, the proposed lot coverage of the residential development is only 38 percent. In both these examples of nearby RM lots, the setbacks, buildable area, and total allowed floor areas are more permissive than what the subject property is limited to. Therefore, strict compliance with the 20-foot front setback, buildable area, and resulting floor

area limit would deprive the subject property of privileges enjoyed by nearby RM lots.

Finding:

- D. *That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*

Facts in Support of Finding:

- D-1. The size of the proposed residential development would be in scale with nearby multi-unit residential developments located on East Coast Highway and Shorecrest Lane.
- D-2. The granting of the Variance would not constitute a special privilege inconsistent with the limitations upon other properties zoned RM as it allows the property owner to maintain equity with other multiple-unit developments along East Coast Highway.

Finding:

- E. *That the granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.*

Facts in Support of Finding:

- E-1. The 5-foot encroachment into the 20-foot setback would not be detrimental to the City or result in a hazard to the existing community or future residents of the project. The project would provide a 15-foot front setback to the street, which is adequate to provide for light, air, privacy and open space, consistent with the intent of the Zoning Code.
- E-2. Trees and shrubs will be planted within the 15-foot front setback to act as a buffer and soften the visual impact along the East Coast Highway frontage.
- E-3. The approval of this Variance is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.
- E-4. The proposed 15-foot setback for the residential structures would be consistent with the development pattern of the multi-unit developments to the east and compatible with the commercial lots to the west which so not have front setback requirements.

- E-5. Of the 1,100 square feet of additional floor area that the applicant is requesting above the maximum floor area limit (based on a buildable area utilizing a 20-foot setback), 1,018 square feet of that floor area is located below grade within the private garage area that is counted towards gross floor area and garage stairs. Therefore, this additional floor area is predominately below grade and does not add significant bulk or mass to the development as compared to what normally be allowed to be developed above grade using the 20-foot setback and resulting floor area limit.

Finding:

- F. *Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

Facts in Support of Finding:

- F-1. The intent of the front setback is to provide adequate separation for light, air, privacy and open space adjacent to the street. In this case, the project would provide a 15-foot front setback to the street, which is consistent with the front setbacks of the other RM zoned lots east. Fifteen feet is adequate to provide for light, air, privacy and open space, consistent with the intent of the Zoning Code.
- F-2. The subject property is designated RM by the Land Use Element of the General Plan and zoned RM. Both designations are intended primarily for multi-family residential development containing attached or detached dwelling units. The subject property is entitled for the development of eight dwelling units where six are proposed. Approval of the Variance will not affect residential density.
- F-3. The subject property is not located within a specific plan area.
- F-4. The overall design, based upon the proposed plans, meets residential design criteria provided within Section 20.48.180.B.2 (Design Criteria) by avoiding long unarticulated walls and providing architectural treatment of all elevations.

Tentative Tract Map

6. A tentative tract map is requested for residential condominium purposes, to create six airspace condominium units. The map would also serve to consolidate five lots and portions of a vacated alley into two lots. In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Newport Beach Municipal Code, the following findings and facts in support of a tentative tract map are set forth:

Finding:

- A. *That the proposed map and the design or improvements of the subdivision are consistent with General Plan and any applicable specific plan, and with the applicable provisions of the Subdivision Map Act and the City Subdivision Code.*

Facts in Support of Finding:

- A-1. The project is consistent with the Commercial Corridor and Multiple Unit Residential General Plan designations of the project site.
- A-2. The Public Works Department has reviewed the proposed tentative map and found it consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act.
- A-3. Conditions of approval have been included to ensure compliance with Title 19.

Finding:

- B. That the site is physically suitable for the type and density of development.

Facts in Support of Finding:

- B-1. The residential portion of the project site is currently a vacant paved/gravel lot and the commercial portion of the project site is currently developed with a 535-square-foot delicatessen.
- B-2. The site where construction will occur is relatively flat and based on the geologic investigation, the site is safe and suitable for development. The subject property has been placed with a significant amount of fill to provide a generally level site perched above the neighboring descending ravine. The fills encountered appear to be dense and compacted to acceptable levels. Expansive soils were encountered and the soils report recommends special attention be given to the project design and maintenance in compliance with Expansive Soil Guidelines.
- B-3. A preliminary Acoustical Study prepared for the project estimates that future traffic noise exposure will be 72.5 dB CNEL to the nearest facades to East Coast Highway. All multi-family projects must comply with the State of California's noise standards that specify that the intrusion of noise from exterior sources (such as traffic) shall not exceed a CNEL of 45 dB within the interior of any habitable space. This is also consistent with the City's interior noise standards established in the General Plan Noise Element, including Policy N1.1, N1.2, and N1.5. The Acoustical Study concludes that with appropriate noise control measures incorporated into the design of the proposed project (e.g., ventilation and air conditioning, weather stripping, increased sound-rated doors, windows, and wall finishes, etc.), no significant noise impacts will occur and the interior noise levels would comply with the City and State interior noise standard of 45 dB CNEL for residential units.

Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably*

injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision-making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

- C-1. The portion of the project site to be developed does not support any environmental resources as indicated in the jurisdictional delineation prepared for the project. The project would not require discharge of fill into areas subject to Army Corp of Engineers, California Department of Fish and Game, or California Coastal Commission jurisdiction within the Buck Gully drainage. As such, there would be no significant impacts to the Buck Gully drainage associated with the project.
- C-2. Portions of the Buck Gully drainage are within areas that could be potentially affected by fuel modification activities, including cutting of vegetation. The jurisdictional delineation concludes that alkali bulrush and southern cattail are growing in the stream channel and account for minimal biomass and would not likely require removal or thinning, as they pose no fire risk or threat. As such, there would be no impacts to wetland vegetation associated with the project.

Finding:

- D. *That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Facts in Support of Finding:

- D-1. The project consists of six residential units and commercial development at 0.75 floor area ratio as allowed by the Zoning Code and the General Plan.
- D-2. No evidence is known to exist that would indicate that the planned subdivision pattern will generate any serious public health problems.
- D-3. All construction for the project will comply with Building, Public Works, and Fire Codes. Public improvements will be required of the developer per Section 19.28.10 of the Municipal Code and Section 66411 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of,*

property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Facts in Support of Finding:

- E-1. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
- E-2. Public improvements will be required of the applicant per the Municipal Code and the Subdivision Map Act.
- E-3. An existing 7.5-foot-wide utilities easement at the rear of the two lots will be retained. An approximate 15-foot-wide access and utilities easement located along the eastern side of the residential lot that is no longer needed would be vacated. An existing slope and drainage easement over the southeasterly corner of the residential lot would also be vacated and replaced with a new variable width storm drain easement. Southern California Edison power lines running in the rear of the property will be re-routed and placed underground.

Finding:

- F. *That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

- F-1. The site is not subject to a Williamson Act contract.

Finding:

- G. *That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (a) there is an adopted specific plan for the area to be included within the land project; and (b) the decision-making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

G-1. The subject property is not located within the boundaries of a specific plan.

Finding:

H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.

Facts in Support of Finding:

H-1. Title 24 of the Uniform Building Code requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate.

H-2. The Newport Beach Building Division will enforce Title 24 compliance through the plan check and field inspection processes for the construction of any future proposed residences.

Finding:

I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.

Facts in Support of Finding:

I-1. There are no existing dwelling units on the project site. Rather the proposed project includes the construction of six new condominium units to contribute to the City's share of the regional housing need. The applicant will be responsible for the payment of appropriate fair share, park, and housing in-lieu fees for the development of these new dwelling units.

Finding:

J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.

Facts in Support of Finding:

J-1. Waste discharge will be directed into the existing sewer system and will not violate Regional Water Quality Control Board (RWQCB) requirements.

- J-2. Sewer connections have been conditioned to be installed per City Standards, the applicable provisions of Chapter 14.24 (Sewer Connection, Permits), and the latest revision of the Uniform Plumbing Code.

Finding:

- K. *For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

- K-1. The project site is not located within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Variance No. VA2012-002, and Tentative Tract Map No. NT2012-001(PA2012-061) subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This Site Development Review, Conditional Use Permit, Modification Permit, and Variance actions shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This Tentative Tract Map action shall become final and effective ten days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, and Variance No. VA2012-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, and Variance No. VA2012-002.
5. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
6. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for the new dwelling units and commercial floor area in accordance with Chapter 15.38 of the Newport Beach Municipal Code.
7. Prior to issuance of building permits, an in-lieu housing fee for six dwelling units (currently \$20,513.00 per new additional dwelling unit) shall be paid in accordance with City Council Resolution No. 2010-44 of the Newport Beach Municipal Code.
8. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
9. This approval may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
10. The existing food use shall continue operating in compliance with the conditions of approval of Specialty Food Permit No. 38. Any intensification of use shall require the application of a new conditional or minor use permit.

11. The existing power poles and overhead power lines located at the rear of the property shall be removed and the power lines shall be undergrounded.
12. Flat roof portions of the commercial building shall be constructed to meet "cool roofs" standards for energy efficiency; however, the color and material shall not result in glare as viewed from the residences above. No mechanical equipment shall be permitted on the roof, except within the designated mechanical well and shall not be visible from East Coast Highway or the adjacent residential properties.
13. The floor plans and building envelopes for each residential unit are approved as precise plans, unless revisions are approved by the Community Development Director. Future floor area additions to the building envelopes shall be prohibited. The proposed open patio and deck areas for each unit shall not be permitted to be enclosed and the landscape and common open space areas proposed throughout the development site shall be preserved.
14. A total of 10 parking spaces shall be provided within the ground level parking lot as illustrated on the approved plans ~~and shall be available for use by guests of the residential tenants and commercial tenants and customers.~~
15. All employees of the commercial building are required to park on site.
16. The shared 10-space parking lot shall be used for the parking of passenger vehicles only, with the exception of temporary parking for the loading and unloading of commercial and residential delivery trucks.
17. The ground level parking lot (excluding residential Parking Space No. 5) shall be exclusively available for commercial tenants between the hours of 8:00 a.m. and 6:00 p.m., daily. Parking uses shall not be restricted between the hours of 6:00 p.m. and 8:00 a.m., daily. Signage shall be provided enforcing said restrictions.
18. One van accessible guest parking space (noted as Space No. 5) shall be maintained within the shared parking lot for the exclusive use of the residential development. Signage shall be provided enforcing said restrictions.
- 16-19. Notwithstanding Condition No. 17, commercial overnight parking within the shared 10-space parking lot shall be prohibited. Residential ~~guest~~ parking overnight is permitted.
- 17-20. The future homeowner's association for the condominium development and the property owner of the commercial property shall enter into a reciprocal parking and access agreement and parking management plan for the joint use of the 10-space ground level parking lot ensuring the permanently availability of parking. The agreement, approved as to form by the City Attorney's Office, shall be recorded prior to the issuance of ~~the Certificate of Occupancy or final of~~ building permits.

- | ~~18.21.~~ No signs, other than signs designating entrances, exits, and conditions of use shall be maintained in the shared parking lot. Signs shall not exceed four square feet in area and 5 feet in height. The number and location shall be approved by the Community Development Director before installation.
- | ~~19.22.~~ Prior to the issuance of building permits, documents/plans shall be submitted demonstrating compliance with the requirements of Chapter 14.17 (Water-Efficient Landscaping Ordinance) of the Municipal Code.
- | ~~20.23.~~ All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
- | ~~21.24.~~ Prior to the issuance of a building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division and the Municipal Operations Department. All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer.
- | ~~22.25.~~ Prior to the final of building permits, the applicant shall schedule an inspection by the Planning Division to confirm that all landscaping was installed in accordance with the approved landscape plan
- | ~~23.26.~~ Water leaving the project site due to over-irrigation of landscape shall be minimized. If an incident such as this is reported, a representative from the Code and Water Quality Enforcement Division shall visit the location, investigate, inform and notice the responsible party, and, as appropriate, cite the responsible party and/or shut off the irrigation water.
- | ~~24.27.~~ Water should not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards
- | ~~25.28.~~ Prior to the issuance of building permits, the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are one-foot-candle or less at all property lines. Higher lighting levels are subject to the review and approval of the Community Development Director where it can be shown to be in compliance with the purpose and intent of the Outdoor Lighting section of the Zoning Code.

- ~~26-29.~~ Prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code and Water Quality Enforcement Division to confirm control of light and glare.
- ~~27-30.~~ Separate trash and recycling dumpsters shall be provided for the residential use and the commercial use. All trash shall be stored ~~within the buildings or~~ within dumpsters for residential and commercial uses stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
- ~~28-31.~~ Prior to the issuance of the certificate of occupancy or final of building permits of the residential units, the future homeowners association shall enter into an agreement with the property owner of the commercial property to allow the use of the trash enclosure and to establish the terms of use and refuse collection.
- ~~29-32.~~ The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
- ~~30-33.~~ Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way
- ~~31-34.~~ ~~Prior to the issuance of the certificate of occupancy or final of building permits of the residential units, the future homeowners association shall enter into an agreement with the property owner of the commercial property to allow the use of the trash enclosure and to establish the terms of use and refuse collection.~~
- ~~32-35.~~ The exterior of the businesses shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
- ~~33-36.~~ Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to the Conditional Use Permit.
- ~~34-37.~~ No outside paging system shall be utilized in conjunction with this development.
- ~~35-38.~~ The operator of the commercial building shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by tenants, patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable

noise control requirements of the Newport Beach Municipal Code.

- | 36.39. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District
- | 37.40. All exits shall remain free of obstructions and available for ingress and egress at all times.
- | 38.41. No building permits may be issued until the appeal period has expired, unless otherwise approved by the Planning Division. Building permits for structures located across the existing property lines shall not be issued until the tract map has been recorded.
- | 39.42. A copy of these conditions of approval shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
- | 40.43. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Plaza Corona Del Mar including, but not limited to, the Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-002 (PA2012-061). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department Conditions

- | 41.44. Fire flow shall be provided in accordance with N.B.F.D. Guideline B.01 "Determination of Required Fire Flow." The fire flow will determine the number of fire hydrants required for the project.
- | 42.45. Structures shall meet the requirements of Chapter 7A of the California Building Code, as amended by the City of Newport Beach.
- | 43.46. New and existing structures in the project will be required to have fire sprinklers. The sprinkler system shall be monitored by a UL certified alarm service company.

- | 44.47. The end of the drive aisle of the shared parking lot shall be identified as a fire lane and marked as per N.B.F.D. Guideline C.01.
- | 45.48. Trash enclosures shall be located at least 5 feet from structures, unless, fire sprinklers are provided in the trash enclosure/structure.
- | 46.49. A fuel modification plan shall be required for all landscape and must be submitted to the Fire Department. All requirements from N.B.F.D. Guideline G.02 "Fuel Modification Plans and Maintenance Standard" must be met. As per Guideline G.02. tree species are not allowed within 10 feet of combustible structures.

Building Division Conditions

- | 47.50. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. The proposed residential dwelling units do not meet the definition of "townhouse" per CBC 202.
- | 48.51. Full access compliance shall be demonstrated and provided in accordance with the February 8, 2012, Building Division letter, CBC 11A and CBC 11B at the time of permit application. The floor and seating plans submitted with the Project Review plans are for reference only. Subsequent plan changes may be required due to code changes prior to submittal for plan review and permitting. This project review does not constitute approval of the floor plans, parking, or other access compliance issues.
- | 49.52. All sides of both the commercial and residential structures shall fully comply with the Special Fire Protection Area requirements at the time of permit submittal. These requirements may be found in CBC 7A, Newport Beach Municipal Code and related codes.
- | 50.53. Prior to the issuance of building permits, a preliminary plan review meeting shall be scheduled with the Building Division.
- | 51.54. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least 2 feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to five minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage car pooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

52-55. Prior to issuance of grading permits, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.

53-56. A list of “good house-keeping” practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

54-57. The construction and equipment staging area shall be located in the least visually prominent area on the site, or another site approved by the Community Development Director, and shall be properly maintained and/or screened to minimize potential unsightly conditions.

55-58. A 6-foot-high screen and security fence shall be placed around the construction site during construction.

56-59. Construction equipment and materials shall be properly stored on the site when not in use.

Public Works Conditions

- | ~~57-60.~~ An encroachment permit is required for all work activities with the public right-of-way.
- | ~~58-61.~~ The parking lot layout shall comply with City Standard F#805-L-A&B and shall be approved by the Public Works Department prior to the issuance of building permits.
- | ~~59-62.~~ All improvements adjacent to the proposed driveway approaches shall comply with the City's sight distance requirement, City Standard 110-L.
- | ~~60-63.~~ In case of damage done to existing public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
- | ~~61-64.~~ County Sanitation District fees shall be paid prior to the issuance of any building permits.
- | ~~62-65.~~ Prior to commencement of demolition and grading of the project, the applicant shall submit a construction management and delivery plan to be reviewed and approved by the Public Works Department. The plan shall include discussion of project phasing; parking arrangements for both sites during construction; anticipated haul routes and construction mitigation. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan.
- | ~~63-66.~~ Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.
- | ~~64-67.~~ Each unit shall have a dedicated water service installed per STD-502-L or STD-503-L, depending on the size.
- | ~~65-68.~~ New and existing fire services, when required by Fire Department shall be protected by a City approved double check detector assembly and installed per STD-517-L.
- | ~~66-69.~~ New and existing commercial water meter(s) shall be protected by a City approved reduced pressure backflow assembly and installed per STD-520_L-A.
- | ~~67-70.~~ Landscaping lines shall have a dedicated meter and shall be protected by a dedicated City approved reduced pressure backflow assembly per STD-520-L-A.
- | ~~68-71.~~ The proposed driveway to the underground parking garage shall have a maximum slope of 15 percent and a maximum change of grade of 11 percent per City Standard #160-L-C.

- 69-72. Prior to the issuance of a Certificate of Occupancy for the proposed structures, all public improvements shall be constructed as required by Ordinance and these conditions of approval.

Tract Map Conditions

1. A Final Tract Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.
2. Prior to recordation of the Final Tract Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. Prior to recordation of the Final Tract Map, the applicant shall provide a bond/surety in order to guarantee completion of all required public improvements. The bond/surety shall be reviewed and approved by the Public Works Department.
4. The existing concrete curb, gutter, and sidewalk along the East Coast Highway frontage shall be reconstructed, per City Standards.
5. The unused driveway approaches shall be abandoned and reconstructed with full height curb, gutter, and sidewalk per City Standard #165-L.
6. Proposed driveway approaches shall be constructed per City Standard #162-L.
7. The proposed storm drain relocation shall be subject to review and approval by the Public Works Department.
8. A variable width storm drain easement measured 5 feet from the westerly side of the centerline of the proposed new storm drain location to the easterly property line shall be granted to the City.
9. New 36-inch box street trees will be required to be planted on East Coast Highway. The designated street tree for this segment of East Coast Highway is the King Palm (Archontophoenix Cunningham). The number and location of these street trees are subject to approval by the Public Works Department and the Parks and Trees Division of the Municipal Operations Department.

10. Prior to or concurrently with the recordation of the Final Tract Map, an approximately 15-foot-wide access and utilities easement through the site adjacent to the eastern property line of 3928 East Coast Highway shall be vacated.
11. Prior to or concurrently with the recordation of the Final Tract Map, an existing slope and drainage easement at the southeast portion of the subject property will be realigned so that it will not conflict with the location of proposed structures.
12. Applicant is responsible for all upgrades to the City's utilities as required to fulfill the project's demand; a new 8-inch VCP sewer main shall be installed from the manhole at the Seaward Road/Coast Highway Intersection to the property's frontage. A new sewer main terminal cleanout shall be installed at the end of the new 8-inch BCP main per STD-400-L. Each unit shall have a dedicated sewer lateral with cleanouts installed per STD-406-L.
13. Prior to the recordation of the Final Tract Map, a park dedication fee for six dwelling units (currently \$26,125.00 per new additional dwelling unit) shall be paid in accordance with Chapter 19.52 of the Newport Beach Municipal Code. This fee shall be paid upon submittal of the map to the Public Works Department for plan check and deposited into the appropriate Service Area account as identified in the Recreation and Open Space Element of the General Plan.
14. The easterly property line of the proposed Lot 2 shall be revised on the Final Tract Map such that the prolongation of the easterly property line directly intersects with the rear property line (i.e. the approximately 82-square-foot notched area illustrated at the northeasterly corner of Lot 2 shall be made a part of Lot 2 and removed from Lot 1).

Attachment No. PC 2

Alternative Draft Resolution of Approval
with Findings and Conditions

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH APPROVING CONDITIONAL USE PERMIT NO. UP2012-011, MODIFICATION PERMIT NO. MD2012-011, SITE DEVELOPMENT REVIEW NO. SD2012-001, TENTATIVE TRACT MAP NO. NT2012-001, AND VARIANCE NO. VA2012-002 FOR THE CONSTRUCTION OF A 2,160-SQUARE-FOOT COMMERCIAL OFFICE ADDITION AND SIX DWELLING UNITS LOCATED AT 3900 AND 3928 EAST COAST HIGHWAY (PA2010-061)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Marcelo E. Lische, architect representing property owner, Magdi Hanna, with respect to property located at 3900 and 3928 East Coast Highway, and legally described as Lots 54, 55, 56, 57, 58, and portions of abandoned alley, Block B, Tract No. 673, requesting approval of a site development review, conditional use permit, modification permit, tentative tract map, and variance.
2. The project includes a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space ground level parking lot. The following approvals are requested or required in order to implement the project as proposed:
 - a. A site development review to ensure compatibility with the site and surrounding land uses.
 - b. A conditional use permit to allow parking for nonresidential uses in an off-site residential zoning district and to reduce the off-street parking to require two guest spaces for the six residential units where the Zoning Code requires three spaces.
 - ~~b. A conditional use permit to allow parking for nonresidential uses in a residential zoning district and to allow off-site parking.~~
 - c. A modification permit to allow a retaining wall up to 17 feet 2 inches in height, where the Zoning Code limits the height to 8 feet.
 - d. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area, where a 20-foot setback is currently required.
 - e. A tentative tract map for condominium purposes and to consolidate five lots and portions of a vacated alley into two lots.

3. The subject property at 3900 East Coast Highway is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).
4. The subject property at 3928 East Coast Highway is located within the Multiple-Unit Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple-Unit Residential (RM).
5. The subject properties are not located within the coastal zone.
6. A public hearing was held on December 6, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting. The Planning Commission voted to continue the item to the January 3, 2013 meeting.
- ~~6.7.~~ A public hearing was held on January 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 32 (Infill Development Projects). This exemption applies to in-fill development projects in urban areas that are consistent with the General Plan and applicable development standards. In addition, the proposed development must occur on a site of no more than five acres, have no value as habitat for endangered, rare or threatened species, be adequately served by all utilities and public services, and must not result in any significant effects relating to traffic, air quality, water quality, or any other significant effect on the environment due to an unusual circumstance.
2. An analysis and exemption determination was prepared for this project. CEQA Class 32 consists of projects characterized as in-fill development meeting the conditions described above. The proposed project consists of the development of new commercial office space with required off-street parking and six detached dwelling units and is consistent with the City's General Plan land use designations (Corridor Commercial and Multiple-Unit Residential) and zoning designations. Potential development of the project site was considered and analyzed in the City's 2006 General Plan EIR for potential environmental impacts. Based on that analysis, there is no reasonable probability that the proposed project will have a significant effect on the environment due to unusual circumstances, nor will the project result in any short-term or long-term impacts that were not previously considered in the Newport Beach General Plan and General Plan EIR. Implementation of the proposed project will not

result in any adverse effects on sensitive biological resources, traffic, air quality, noise or water quality. The project site does not exceed five acres in area, is located in an urban area, and can be adequately served by all required utilities and public services. Therefore, the proposed project meets all of the conditions described above for in-fill development and qualifies for a Class 32 exemption.

SECTION 3. REQUIRED FINDINGS.

Site Development Review

1. A site development review is required for the construction of five or more residential units processed in conjunction with a tentative tract map. Also, because the proposed project is essentially a mixed-use development with horizontal inter-mixing of residential and commercial uses and a ground level parking lot, the site development review analyzes the project as a whole for compatibility with the site and surrounding land uses. In accordance with Section 20.52.080 (Site Development Review) of the Zoning Code, the Planning Commission must also make the following findings for approval of a site development review:

Finding:

- A. *Allowed within the subject zoning district;*

Facts in Support of Finding:

- A-1. The zoning designation for the commercial component at 3900 East Coast Highway is Commercial Corridor (CC), which is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. A commercial building with retail, office, and restaurant uses are permitted for the commercial component of the proposed project at 3900 East Coast Highway. The existing food use (Gallo's Deli) was previously permitted through Specialty Food Permit No. 38 and would continue operating under said permit.
- A-2. The zoning designation for the residential component at 3928 East Coast Highway is Multiple-Unit Residential (RM, 8 DU), which is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units. The site is limited to a maximum of eight dwelling units. The proposed project consists of the development of six detached dwelling units, which is consistent with the zoning designation of the site.
- A-3. The subject property is not part of a specific plan area.

Finding:

- B. *In compliance with all of the applicable criteria [below]:*

- a. Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
- b. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;*
- c. The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
- d. The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
- e. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
- f. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections); and*

Facts in Support of Finding:

- Ba-1. The proposed detached residential condominiums are permitted uses within the RM General Plan land use designation and zoning district. The commercial component of the project would consist of a general office and food use, which are permitted uses within the CC General Plan land use designation and zoning district. The food use is an existing use which would continue operating under Specialty Food Permit No. 38.
- Ba-2. As required by the Zoning Code, a conditional use permit has been requested for the commercial off-site parking arrangement on the residential lot, a variance has been requested to establish a 15-foot front setback for the purposes of setbacks and buildable area for the residential component, and a modification permit has been requested to allow for the proposed height of the retaining wall.
- Ba-3. The size, density, and character of the proposed residential dwelling units complement the existing land uses in the project area and include design elements consistent with Land Use Element Policy 5.1.9 (Character and Quality of Multi-Family Residential) that requires multi-family dwellings to be designed to convey a high quality architectural character. Consistent with this policy, the architectural treatment of the building includes high quality finishes and modulation of mass to convey the character of separate living units and avoiding the appearance of a singular building volume. The roofs have been designed with inverted sloping planes to provide visual interest. Significant private open space would also be provided in the form of large balconies, yard

areas, and further complemented with additional common recreational open space area to provide a pleasant living environment with opportunities for recreation.

- Ba-4. The General Plan also includes Policy LU 6.20.1 that encourages neighborhood serving uses that complement existing development. Policy 6.20.3 encourages the redevelopment of residential parcels immediately adjoining commercial uses that front onto Coast Highway for surface parking. The proposed project requests a parking arrangement that is consistent with the policy overview for the Corona Del Mar corridor.
- Bb-1. The residential and commercial components of the project are integrated as a unified development through the use of similar architectural style and design ~~elements, shared use of parking, and~~ elements and internal pedestrian connectivity.
- Bb-2. The proposed office addition above the existing food use has been designed to improve the aesthetics of the site and improve the commercial presence and interface on East Coast Highway.
- Bb-3. Due to the approximate 17-foot grade differential between the project site and the existing residential property to the rear at 408 Hazel Drive and 10-foot 7-inch separation from the commercial addition to the residential property line, the residential property will not be negatively impacted by the project and will maintain increased privacy and open space.
- Bb-4. Consistent with General Plan Policy LU 6.20.3 and the Policy Overview for Corona del Mar, to facilitate redevelopment of the commercial lot, parking spaces required for the office addition would primarily be accommodated on the adjacent residential lot. ~~The parking spaces would also serve as an area for guest parking for the residential development. This shared parking arrangement provides flexibility to accommodate the varying peak parking demands of the commercial and residential uses, efficiently utilizes the site to maximize the number of spaces that can be provided on-site, and serves as a buffer between the proposed residential units and expanded commercial building.~~
- Bb-5. The residential component of the project has been designed as six detached units above grade, minimizing the bulk and mass of the project and provides for increased open space, light, and air for each unit. Below grade, the project has been designed to efficiently accommodate private garages and guest parking within a single subterranean parking structure.
- Bb-6. The mechanical equipment enclosure for the commercial building has been located approximately 29 feet away from the adjacent residential lot to the rear and approximately 57 feet from the proposed residential units to the west to reduce noise impacts, and would be screened within an equipment enclosure.

- Bb-7. Both the commercial and residential components of the project provide separate and well-defined entries.
- Bc-1. The unified design theme of the commercial and residential component of the project provides for an architectural transition between the residential uses that front East Coast Highway to the east and the commercial corridor that begins to the west.
- Bc-2. The height and bulk of the proposed commercial building are consistent in scale with the commercial building to the west that has roof top parking. The commercial building would also be setback 10 feet 7 inches to the existing residential property line located to the rear and due to the difference in grade (approx. 17 feet), the visual bulk of the building would be minimized when viewed from above.
- Bc-3. The proposed commercial building fronts East Coast Highway, thereby implementing the General Plan policies to foster pedestrian activity with the Corona del Mar commercial corridor.
- Bc-4. The front façade of the commercial building includes both vertical and horizontal off-sets and utilizes a variation of building materials to provide enhanced visual relief.
- Bc-5. The proposed residential units have been designed with horizontal off-sets and variation in roof heights to provide visual interest. In addition, the massing of the units is broken up by the varying building separation.
- Bc-6. The height, bulk, and scale of the residential units are consistent with the adjacent residential condominium complex to the east.
- Bc-7. The ground level parking lot provides a buffer between the proposed commercial and residential uses and is designed to maintain privacy for the residential tenants and protection from vehicular impacts.
- Bd-1. The project would consolidate the three existing driveways along East Coast Highway into two driveways, thereby reducing potential conflicts and increasing vehicular safety.
- Bd-2. The consolidation of driveways also increases the number of on-street parking spaces along the project frontage from two spaces to a total of five spaces (three new spaces).
- Bd-3. The residential component includes separate and independent access via the easterly driveway into a subterranean parking structure. Furthermore, each residential unit would be afforded a private enclosed garage with direct interior access to their units.

- Bd-4. The project results in a total peak parking requirement of ~~24-23 surface~~ spaces (nine spaces for the commercial office floor area, 12 residential parking spaces, and ~~three-two~~ residential guest parking spaces with a one-space reduction in the residential guest parking requirement), which can be provided entirely on-site within the 14-space subterranean parking structure and the 10-space ground level parking lot.
- Bd-5. The existing specialty food use was approved under Specialty Food Permit No. 38 without any required parking and will continue to operate as a vested land use right.
- Bd-6. The 10-space ground level parking lot would be accessed via the westerly driveway and would accommodate parking for the commercial uses and guests of the residential units. The shared parking arrangement allows for flexibility for use of the parking spaces during the varying peak parking demands of the commercial and residential uses.
- Bd-7. The proposed ground level parking lot has been designed to accommodate and provide safe access for emergency, delivery, and refuse collections vehicles, as determined by the City Traffic Engineer.
- Bd-8. The project provides adequate sight distance at each driveway, as determined by the City Traffic Engineer.
- Bd-9. The project would include enhanced pedestrian walkways that provide access between the various uses and within the project site, and to the surrounding public sidewalks and uses.
- Be-1. The residential component includes the enhanced use of landscaping, including a variation of ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the condominium units from the commercial uses to the west, residential uses to east, and from East Coast Highway.
- Be-2. The ground level parking lot complies with the landscape parking lot requirements of Newport Beach Municipal Code (NBMC) Sec. 20.40.070.D.3 (Landscaping) and includes adequate and effective use of ground cover, hedges, and shade trees. The parking lot is also screened from East Coast Highway by a 5-foot-wide planter.
- Be-3. A six-foot-high block wall and row of columnar trees would be provided between the residential units and the ground level parking to provide a screening buffer.
- Be-4. The project is subject to the City's Water Efficient Landscape Ordinance (Chapter 14.17 of NBMC).

- Be-5. The relocated outdoor dining area of the existing food use will be better defined for compliance with the condition of Specialty Food Permit No. 38 through the use of planter boxes, which will also improve the appearance of the site.
- Be-6. The proposed residential development includes a large common outdoor living area of 533 square feet that includes a spa and barbeque area. In addition, each unit is afforded private outdoor living space in the form of large balconies and/or private yard areas.
- Bf-1. The portion of East Coast Highway, on which the project is located, is not a designated coastal view road and is not considered a public view corridor.

Finding:

- C. *The proposed development is not detrimental to the harmonious and orderly growth of the City, or endanger jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

- C-1. The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents.
- C-2. The project's trash enclosure would be shared between the residential and commercial component, and would be located at the rear of the commercial lot. The size, design, location, and screening of the refuse enclosure comply with the requirements of NBMC Sec. 20.30.120 ensuring compatibility with the on-site and adjacent uses. Adequate access to refuse containers would be provided through the ground level parking lot and noise and visual impacts to the adjacent residential use to the rear would be minimized due to the retaining wall, differences in grade, and landscaping.
- C-3. The project is subject to the City's Outdoor Lighting requirements contained with Section 20.30.070 of the Zoning Code.
- C-4. The relocated 125-square-foot outdoor dining area of the existing food use would be covered by the office addition above and would be screened and noise attenuated from the existing adjacent residential use to the rear due to the difference in grade.
- C-5. The specialty food use and the proposed general office would not maintain late hours as defined by the Zoning Code to be later than 11:00 p.m.
- C-6. Roof-top mechanical equipment would be fully enclosed within an equipment screen and would not be visible from the residences above. The rooftop

mechanical equipment enclosure has been located at the center of the commercial building to minimize the bulk of the building as viewed from East Coast Highway.

- C-7. Tenant improvements to the new commercial component of the development will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Conditional Use Permit – General Findings

2. A conditional use permit is requested to allow off-site parking for the commercial development at 3900 East Coast Highway to be located on the adjacent residential property at 3928 East Coast Highway and to reduce the off-street parking requirement to two guest spaces for the six residential units where the Zoning Code requires three spaces. In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a conditional use permit are set forth:

Finding

- A. *The use is consistent with the General Plan and any applicable specific plan:*

Facts in Support of Finding

- A-1. The proposed detached residential condominiums are consistent with the RM General Plan Land Use Element designation.
- A-2. The proposed general office and food uses within the commercial component are consistent with the CC General Plan land use designation.
- A-3. Land Use Policy LU6.20.3 (Expanded Parking) for Corona Del Mar seeks to accommodate the redevelopment of residential parcels immediately adjoining commercial uses that front onto Coast Highway for ground level parking, provided that adequate buffers are incorporated to prevent impacts on adjoining residential uses. The proposed project requests-utilizes commercial parking on a residential lot-a shared parking orientation that is consistent with the policy overview for the Corona Del Mar corridor. Adequate walls and landscape buffers will be provided to clearly delineate the change of uses along the Coast Highway frontage.
- A-4. The subject properties are not part of a specific plan area.

Finding

- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code:*

Facts in Support of Finding

- B-1. The proposed detached residential condominiums are permitted uses within the RM zoning district.
- B-2. The proposed general office and food uses within the commercial component are consistent with the CC zoning district.
- B-3. The required number of parking spaces to accommodate the new commercial development will be provided in ~~thea shared parking situation lot that crosses across~~ the commercial property and the adjacent residential property at 3928 East Coast Highway. The proposed parking lot complies with the requirements as provided in Section 20.40.080 (Parking for Nonresidential Uses in Residential Zoning Districts), which requires the parking area to be designed to be compatible with and to not fragment the adjacent neighborhood, located within a reasonable walking distance to the use it is intended to serve, and to not be detrimental or injurious to property and improvements in the neighborhood.
- B-4. The waiver of one residential guest parking space complies with the limitations and permitted standards established by Section 20.40.110 (Adjustments to Off-Street Parking Requirements) of the Zoning Code to allow the approval of a conditional use permit to reduce the off-street parking requirement.

Finding

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity:*

Facts in Support of Finding

- C-1. All of the required parking for the additional commercial development would be provided within close proximity and in an accessible manner for patrons at 3900 East Coast Highway.
- C-2. The ground level parking lot is intended to serve the parking demands of the proposed commercial office floor area. ~~;~~ however, parking will be unrestricted so as to allow for shared parking with the existing food use and guest parking for the residential components. During the daytime, commercial parking demand outweighs residential parking demand. Therefore, the spaces provided within the ground level parking lot should be set aside exclusively for commercial use. Residential guest parking can be accommodated on the street, if needed.
- C-3. The residential users will ~~have direct access to the commercial site and parking lot through a secured gate, but would~~ be adequately buffered from the parking lot activity by solid 6-foot-high block walls, landscaping buffers, and minimal windows designed facing the parking lot.

C-4. The project has been reviewed and found to be compliant with the parking area requirements and landscaping standards as provided in Section 20.40.070 (Development Standards for Parking Areas) and the outdoor lighting standards in Section 20.30.070 (Outdoor Lighting).

C-5. The subterranean parking structure for the residential component includes 12 resident parking spaces and two guest parking spaces. Additional resident guest parking spaces can be accommodated with the five on-street parking spaces proposed in front of the development on East Coast Highway, three of which would be newly created spaces.

Finding

D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities:*

Facts in Support of Finding

D-1. The proposed parking lot provides adequate vehicle circulation and parking spaces for patrons.

D-2. Adequate public and emergency vehicle access, public services, and utilities are provided.

D-3. The development of the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

D-4. Three additional on-street parking spaces are provided as a result of the proposed development.

D-5. The subterranean parking structure level will be redesigned to accommodate an adequate handicap van accessible guest parking space.

Finding

E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

E-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible.

E-2. The proposed commercial and residential development will serve the surrounding residential and retail community. This will revitalize the project site and provide an economic opportunity for the property owner to improve the visual character of East Coast Highway, a major thoroughfare through Corona Del Mar.

E-3. The proposed parking lot configuration with two guest parking spaces in addition to nearby on-street spaces for the residential uses is adequate to accommodate the parking demand for visitors.

Conditional Use Permit- Additional Findings for Off-Site Parking

3. Pursuant to Section 20.40.100 of the Zoning Code, off-street parking on a separate lot from the project site also requires the approval of a conditional use permit. In addition to the standard conditional use permit findings, approval of off-site parking is subject to specific findings. The following findings and facts in support of such findings are set forth:

Finding

A. *The parking facility is located within a convenient distance to the use it is intended to serve.*

Facts in Support of Finding

A-1. The off-site parking lot, located immediately adjacent to the subject property, is essentially on-site.

Finding

B *On-street parking is not being counted towards meeting parking requirements.*

Facts in Support of Finding

B-1. The nine parking spaces required to accommodate the additional commercial development are provided entirely within the parking lot.

B-2. The enhancement of public improvements and parking are identified as an opportunity for change within Land Use Policy LU3.3 of the General Plan. The proposed project would close an existing driveway on 3928 East Coast Highway and provide additional on-street parking available to the public.

Finding

- C *Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area.*

Facts in Support of Finding

- C-1. The Traffic Engineer has reviewed and approved the configuration of the new parking lot extension and proposed changes to the existing parking lot, and has determined that the parking lot design will not create an undue traffic hazard in the surrounding area.
- C-2. The design consolidates three driveways into two driveways, thereby reducing potential conflicts and increasing vehicular safety along East Coast Highway.

Finding

- D *The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

Facts in Support of Finding

- D1. Both of the commercial and residential components of the project site are currently owned in common across six legal lots. The proposed tract map would result in two new lots with commercial development on one and the six-unit residential condominiums on the second. As a condition of approval, the homeowner's association for the condominium development and the property owner of the commercial property will be required to enter into a [reciprocal](#) parking agreement for the [joint](#)-use of the 10-space ground level parking lot; therefore, the parking facility will remain available, marked, and maintained as intended.

Modification Permit

4. A modification permit is requested to allow construction of a retaining wall at a maximum height of 17 feet 2 inches from the finished grade that is located at the northwesterly corner of the lot located at 3900 East Coast Highway, where the Zoning Code limits the height to 8 feet maximum. An increase in height of a retaining wall may be requested per Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls) of the Zoning Code. In accordance with Section 20.52.050 (Modification Permits), the Planning Commission must also make the following findings for approval of a modification permit:

Finding:

- A. *The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

- A-1. The view of the new retaining wall from East Coast Highway will be partially shielded by the second floor of the proposed commercial development.
- A-2. To minimize the massing and visual impact of the wall to the on-site users, a planter wall and trash enclosure is proposed to be located in front of the retaining wall and to improve its overall aesthetics.

Finding:

- B. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

- B-1. The proposed commercial lot is constrained due to size and the steepness of the slope at northwesterly corner of the lot.
- B-2. The commercial lot is currently developed with a food use and the proposed development includes additional commercial office construction that would maximize the development potential identified by the General Plan floor area limit (0.75 FAR). The proposed retaining wall would accommodate the proposed development and make sufficient useable area available to provide required on-site parking for the new commercial office development.

Finding:

- C. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Facts in Support of Finding:

- C-1. Zoning Code regulations allow retaining walls at a maximum height of 8 feet with a minimum separation requirement of 6 feet between walls. Due to the topography of the project site, the construction of two terraced retaining walls that comply with this standard would result in a significant loss of site area necessary to provide on-site parking, vehicular circulation, and a trash enclosure for the new commercial development

Finding:

- D. *There are no alternatives to the Modification Permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

- D-1. Without this approval, the applicant would be required to construct a series of 8-foot retaining walls with a 6-foot separation between walls. This would result in a significant loss of project site area that is necessary to provide required on-site parking for the proposed use.
- D-2. A terraced design that provides the required separation would not be less detrimental to existing residential property located to the rear at 408 Hazel Drive because they would not be able to see the face of the retaining wall from their vantage point due to the grade differential. Also, since the retaining wall is partially screened as viewed from East Coast Highway, the terraced design would not be readily visible from the public.
- D-3. The location of the retaining wall, at the rear of the subject property is appropriate given the proposed retaining wall would be adequately screened from the adjacent right-of-way. The retaining wall will provide a planter wall and trash enclosure in front of it to provide variation and articulation to improve the visual aesthetic of the retaining wall, consistent with the intent of the wall separation requirement.

Finding:

- E. *The granting of the modification would not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Facts in Support of Finding:

- E-1. The proposed retaining wall would provide a wrought iron guardrail for safety on the higher side of the property on the adjacent commercial and residential properties.
- E-2. The highest point of the retaining wall is near the northwest corner of the lot and is screened by the proposed commercial building as viewed from Coast Highway. Also, the retaining wall drops approximately 8 feet over a distance of 16 feet 6 inches, minimizing the height of the wall as the existing grade drops so that the visual impact of the wall is reduced.

- E-3. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development. The portion of the property at 3900 East Coast Highway where the retaining wall is proposed was previously an alley that has recently been vacated by the City and granted to the property owner of 3900 East Coast Highway.

Variance

5. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area where a 20-foot setback is required. In accordance with Section 20.52.090.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of a variance are set forth:

Finding:

- A. *That there are special or unique circumstances or conditions applicable to the subject property (e.g. location, shape, size, surrounding, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification.*

Facts in Support of Finding:

- A-1. The subject property is a wide (approx. 165 feet), but shallow lot (approx. 91 feet). The shallowness of the lot creates a design constraint for developing the site to its maximum allowed density of eight dwelling units, while still providing for required parking, vehicular circulation, open space, and the required setbacks. Due to these constraints, the applicant is only proposing to develop a total of six dwelling units but is requesting the ability to encroach five feet into the front 20-foot setback, similar to other developed RM lots in the vicinity.
- A-2. A 20-foot setback, corresponding buildable area, and resulting floor area limit are not appropriate for this property based on a review of the development pattern of adjacent multi-unit residential developments east of the project site that also front onto East Coast Highway.

Finding:

- B. *That strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification.*

Facts in Support of Finding:

- B-1. Immediately to the east of the subject property is a large 18-unit residential condominium complex (401 Seaward Rd.) that maintains a 15-foot front setback adjacent to East Coast Highway and to Seaward Road. This property is located

on a one acre lot and is permitted a much larger floor area limit of 1.75 (instead of 1.5).

- B-2. Further east are several RM-6000 zoned lots (4104-4348 Shorecrest Ln.) that also maintain 15-foot front setbacks adjacent to East Coast Highway. These lots are not subject to a floor area limit ratio, but rather are limited to a 60 percent maximum lot coverage requirement.
- B-3. The setbacks and allowed floor area for nearby multi-unit developments are more permissive than what the subject property is limited to. Therefore, strict compliance with the 20-foot front setback and resulting floor area limit would deprive the subject property of privileges enjoyed by nearby RM lots.
- B-4. Granting of the variance would allow the applicant to develop a multi-unit residential development utilizing similar setbacks and to a more reasonable floor area limit consistent with other multi-unit residential developments in the area.

Finding:

- C. *That the granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant.*

Facts in Support of Finding:

- C-1. The 18-unit condominium complex to the east is located on a larger one acre lot and is permitted a larger floor area limit of 1.75 times the buildable area (instead of 1.5). If the subject property were allowed a similar 1.75 floor area limit, the floor area limit would be 14,719 square feet, which is larger than the 13,703 square feet proposed. Also, the RM-6000 zoned lots further east are not subject to a floor area limit ratio, but rather are regulated by a 60 percent maximum lot coverage requirement. For comparison, the proposed lot coverage of the residential development is only 38 percent. In both these examples of nearby RM lots, the setbacks, buildable area, and total allowed floor areas are more permissive than what the subject property is limited to. Therefore, strict compliance with the 20-foot front setback, buildable area, and resulting floor area limit would deprive the subject property of privileges enjoyed by nearby RM lots.

Finding:

- D. *That the granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district.*

Facts in Support of Finding:

- D-1. The size of the proposed residential development would be in scale with nearby multi-unit residential developments located on East Coast Highway and Shorecrest Lane.
- D-2. The granting of the variance would not constitute a special privilege inconsistent with the limitations upon other properties zoned RM as it allows the property owner to maintain equity with other multiple-unit developments along East Coast Highway.

Finding:

- E. That the granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.*

Facts in Support of Finding:

- E-1. The 5-foot encroachment into the 20-foot setback would not be detrimental to the City or result in a hazard to the existing community or future residents of the project. The project would provide a 15-foot front setback to the street, which is adequate to provide for light, air, privacy and open space, consistent with the intent of the Zoning Code.
- E-2. Trees and shrubs will be planted within the 15-foot front setback to act as a buffer and soften the visual impact along the East Coast Highway frontage.
- E-3. The approval of this Variance is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.
- E-4. The proposed 15-foot setback for the residential structures would be consistent with the development pattern of the multi-unit developments to the east and compatible with the commercial lots to the west which so not have front setback requirements.
- E-5. Of the 1,100 square feet of additional floor area that the applicant is requesting above the maximum floor area limit (based on a buildable area utilizing a 20-foot setback), 1,018 square feet of that floor area is located below grade within the private garage area that is counted towards gross floor area and garage stairs. Therefore, this additional floor area is predominately below grade and does not add significant bulk or mass to the development as compared to what normally be allowed to be developed above grade using the 20-foot setback and resulting floor area limit.

Finding:

- F. Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

Facts in Support of Finding:

- F-1. The intent of the front setback is to provide adequate separation for light, air, privacy and open space adjacent to the street. In this case, the project would provide a 15-foot front setback to the street, which is consistent with the front setbacks of the other RM zoned lots east. Fifteen feet is adequate to provide for light, air, privacy and open space, consistent with the intent of the Zoning Code.
- F-2. The subject property is designated RM by the Land Use Element of the General Plan and zoned RM. Both designations are intended primarily for multi-family residential development containing attached or detached dwelling units. The subject property is entitled for the development of eight dwelling units where six are proposed. Approval of the Variance will not affect residential density.
- F-3. The subject property is not located within a specific plan area.
- F-4. The overall design, based upon the proposed plans, meets residential design criteria provided within Section 20.48.180.B.2 (Design Criteria) by avoiding long unarticulated walls and providing architectural treatment of all elevations.

Tentative Tract Map

6. A tentative tract map is requested for residential condominium purposes, to create six airspace condominium units. The map would also serve to consolidate five lots and portions of a vacated alley into two lots. In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Newport Beach Municipal Code, the following findings and facts in support of a tentative tract map are set forth:

Finding:

- A. That the proposed map and the design or improvements of the subdivision are consistent with General Plan and any applicable specific plan, and with the applicable provisions of the Subdivision Map Act and the City Subdivision Code.*

Facts in Support of Finding:

- A-1. The project is consistent with the Commercial Corridor and Multiple Unit Residential General Plan designations of the project site.
- A-2. The Public Works Department has reviewed the proposed tentative map and found it consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act.
- A-3. Conditions of approval have been included to ensure compliance with Title 19.

Finding:

- B. That the site is physically suitable for the type and density of development.

Facts in Support of Finding:

- B-1. The residential portion of the project site is currently a vacant paved/gravel lot and the commercial portion of the project site is currently developed with a 535-square-foot delicatessen.
- B-2. The site where construction will occur is relatively flat and based on the geologic investigation, the site is safe and suitable for development. The subject property has been placed with a significant amount of fill to provide a generally level site perched above the neighboring descending ravine. The fills encountered appear to be dense and compacted to acceptable levels. Expansive soils were encountered and the soils report recommends special attention be given to the project design and maintenance in compliance with Expansive Soil Guidelines.
- B-3. A preliminary Acoustical Study prepared for the project estimates that future traffic noise exposure will be 72.5 dB CNEL to the nearest facades to East Coast Highway. All multi-family projects must comply with the State of California's noise standards that specify that the intrusion of noise from exterior sources (such as traffic) shall not exceed a CNEL of 45 dB within the interior of any habitable space. This is also consistent with the City's interior noise standards established in the General Plan Noise Element, including Policy N1.1, N1.2, and N1.5. The Acoustical Study concludes that with appropriate noise control measures incorporated into the design of the proposed project (e.g., ventilation and air conditioning, weather stripping, increased sound-rated doors, windows, and wall finishes, etc.), no significant noise impacts will occur and the interior noise levels would comply with the City and State interior noise standard of 45 dB CNEL for residential units.

Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision-making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

- C-1. The portion of the project site to be developed does not support any environmental resources as indicated in the jurisdictional delineation prepared for the project. The project would not require discharge of fill into areas subject to Army Corp of Engineers, California Department of Fish and Game, or California Coastal Commission jurisdiction within the Buck Gully drainage. As such, there would be no significant impacts to the Buck Gully drainage associated with the project.
- C-2. Portions of the Buck Gully drainage are within areas that could be potentially affected by fuel modification activities, including cutting of vegetation. The jurisdictional delineation concludes that alkali bulrush and southern cattail are growing in the stream channel and account for minimal biomass and would not likely require removal or thinning, as they pose no fire risk or threat. As such, there would be no impacts to wetland vegetation associated with the project.

Finding:

- D. *That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Facts in Support of Finding:

- D-1. The project consists of six residential units and commercial development at 0.75 floor area ratio as allowed by the Zoning Code and the General Plan.
- D-2. No evidence is known to exist that would indicate that the planned subdivision pattern will generate any serious public health problems.
- D-3. All construction for the project will comply with Building, Public Works, and Fire Codes. Public improvements will be required of the developer per Section 19.28.10 of the Municipal Code and Section 66411 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Facts in Support of Finding:

- E-1. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
- E-2. Public improvements will be required of the applicant per the Municipal Code and the Subdivision Map Act.
- E-3. An existing 7.5-foot-wide utilities easement at the rear of the two lots will be retained. An approximate 15-foot-wide access and utilities easement located along the eastern side of the residential lot that is no longer needed would be vacated. An existing slope and drainage easement over the southeasterly corner of the residential lot would also be vacated and replaced with a new variable width storm drain easement. Southern California Edison power lines running in the rear of the property will be re-routed and placed underground.

Finding:

- F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

- F-1. The site is not subject to a Williamson Act contract.

Finding:

- G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (a) there is an adopted specific plan for the area to be included within the land project; and (b) the decision-making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

- G-1. The subject property is not located within the boundaries of a specific plan.

Finding:

- H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Facts in Support of Finding:

- H-1. Title 24 of the Uniform Building Code requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate.
- H-2. The Newport Beach Building Division will enforce Title 24 compliance through the plan check and field inspection processes for the construction of any future proposed residences.

Finding:

- I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Facts in Support of Finding:

- I-1. There are no existing dwelling units on the project site. Rather the proposed project includes the construction of six new condominium units to contribute to the City's share of the regional housing need. The applicant will be responsible for the payment of appropriate fair share, park, and housing in-lieu fees for the development of these new dwelling units.

Finding:

- J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Facts in Support of Finding:

- J-1. Waste discharge will be directed into the existing sewer system and will not violate Regional Water Quality Control Board (RWQCB) requirements.
- J-2. Sewer connections have been conditioned to be installed per City Standards, the applicable provisions of Chapter 14.24 (Sewer Connection, Permits), and the latest revision of the Uniform Plumbing Code.

Finding:

- K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

K-1. The project site is not located within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Variance No. VA2012-002, and Tentative Tract Map No. NT2012-001(PA2012-061) subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This Site Development Review, Conditional Use Permit, Modification Permit, and Variance actions shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This Tentative Tract Map action shall become final and effective ten days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3rd DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT "A"**CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, and Variance No. VA2012-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, and Variance No. VA2012-002.
5. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
6. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid for the new dwelling units and commercial floor area in accordance with Chapter 15.38 of the Newport Beach Municipal Code.
7. Prior to issuance of building permits, an in-lieu housing fee for six dwelling units (currently \$20,513.00 per new additional dwelling unit) shall be paid in accordance with City Council Resolution No. 2010-44 of the Newport Beach Municipal Code.
8. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
9. This approval may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
10. The existing food use shall continue operating in compliance with the conditions of approval of Specialty Food Permit No. 38. Any intensification of use shall require the application of a new conditional or minor use permit.

11. The existing power poles and overhead power lines located at the rear of the property shall be removed and the power lines shall be undergrounded.
12. Flat roof portions of the commercial building shall be constructed to meet "cool roofs" standards for energy efficiency; however, the color and material shall not result in glare as viewed from the residences above. No mechanical equipment shall be permitted on the roof, except within the designated mechanical well and shall not be visible from East Coast Highway or the adjacent residential properties.
13. The floor plans and building envelopes for each residential unit are approved as precise plans, unless revisions are approved by the Community Development Director. Future floor area additions to the building envelopes shall be prohibited. The proposed open patio and deck areas for each unit shall not be permitted to be enclosed and the landscape and common open space areas proposed throughout the development site shall be preserved.
14. A total of 10 parking spaces shall be provided within the ground level parking lot as illustrated on the approved plans and shall be available for use by ~~guests of the residential tenants and~~ commercial tenants and customers only. Signage shall be provided enforcing said restrictions.
15. All employees of the commercial building are required to park on site.
16. The ~~shared~~ 10-space parking lot shall be used for the parking of passenger vehicles only, with the exception of temporary parking for the loading and unloading of commercial and residential delivery trucks.
17. The subterranean parking structure shall be redesigned to provide a total of two guest parking spaces including one handicap van accessible space with a publicly accessible elevator.
- ~~1. Commercial overnight parking within the shared 10-space parking lot shall be prohibited. Residential guest parking overnight is permitted.~~
- ~~17-18.~~ The future homeowner's association for the condominium development and the property owner of the commercial property shall enter into a ~~reciprocal~~ parking and access agreement and parking management plan for the ~~joint~~ use of the 10-space ground level parking lot ensuring the permanent availability of parking. The agreement, approved as to form by the City Attorney's Office, shall be recorded prior to the issuance of ~~the Certificate of Occupancy or final of~~ building permits.
- ~~18-19.~~ No signs, other than signs designating entrances, exits, and conditions of use shall be maintained in the ~~shared~~ parking lot. Signs shall not exceed four square feet in area and five feet in height. The number and location shall be approved by the Community Development Director before installation.

- 19-20. Prior to the issuance of building permits, documents/plans shall be submitted demonstrating compliance with the requirements of Chapter 14.17 (Water-Efficient Landscaping Ordinance) of the Municipal Code.
- 20-21. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
- 21-22. Prior to the issuance of a building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division and the Municipal Operations Department. All planting areas shall be provided with a permanent underground automatic sprinkler irrigation system of a design suitable for the type and arrangement of the plant materials selected. The irrigation system shall be adjustable based upon either a signal from a satellite or an on-site moisture-sensor. Planting areas adjacent to vehicular activity shall be protected by a continuous concrete curb or similar permanent barrier. Landscaping shall be located so as not to impede vehicular sight distance to the satisfaction of the Traffic Engineer.
- 22-23. Prior to the final of building permits, the applicant shall schedule an inspection by the Planning Division to confirm that all landscaping was installed in accordance with the approved landscape plan
- 23-24. Water leaving the project site due to over-irrigation of landscape shall be minimized. If an incident such as this is reported, a representative from the Code and Water Quality Enforcement Division shall visit the location, investigate, inform and notice the responsible party, and, as appropriate, cite the responsible party and/or shut off the irrigation water.
- 24-25. Water should not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards
- 25-26. Prior to the issuance of building permits, the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are one-foot-candle or less at all property lines. Higher lighting levels are subject to the review and approval of the Community Development Director where it can be shown to be in compliance with the purpose and intent of the Outdoor Lighting section of the Zoning Code.
- 26-27. Prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code and Water Quality Enforcement Division to confirm control of light and glare.

- 27-28. Separate trash and recycling dumpsters shall be provided for the residential use and the commercial use. All trash shall be stored ~~within the buildings or~~ within dumpsters ~~for residential and commercial uses stored~~ in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
- 28-29. Prior to the issuance of the certificate of occupancy or final of building permits of the residential units, the future homeowners association shall enter into an agreement with the property owner of the commercial property to allow the use of the trash enclosure and to establish the terms of use and refuse collection.
- 29-30. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
- 30-31. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way
- 31-32. Prior to the issuance of the certificate of occupancy or final of building permits of the residential units, the future homeowners association shall enter into an agreement with the property owner of the commercial property to allow the use of the trash enclosure and to establish the terms of use and refuse collection.
- 32-33. The exterior of the businesses shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
- 33-34. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to the Conditional Use Permit.
- 34-35. No outside paging system shall be utilized in conjunction with this development.
- 35-36. The operator of the commercial building shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by tenants, patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
- 36-37. Kitchen exhaust fans shall be installed/maintained in accordance with the Uniform Mechanical Code. The issues with regard to the control of smoke and odor shall be directed to the South Coast Air Quality Management District

- 37-38. All exits shall remain free of obstructions and available for ingress and egress at all times.
- 38-39. No building permits may be issued until the appeal period has expired, unless otherwise approved by the Planning Division. Building permits for structures located across the existing property lines shall not be issued until the tract map has been recorded.
- 39-40. A copy of these conditions of approval shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
- 40-41. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Plaza Corona Del Mar including, but not limited to, the Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Site Development Review No. SD2012-001, Tentative Tract Map No. NT2012-001, and Variance No. VA2012-002 (PA2012-061). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department Conditions

- 41-42. Fire flow shall be provided in accordance with N.B.F.D. Guideline B.01 "Determination of Required Fire Flow." The fire flow will determine the number of fire hydrants required for the project.
- 42-43. Structures shall meet the requirements of Chapter 7A of the California Building Code, as amended by the City of Newport Beach.
- 43-44. New and existing structures in the project will be required to have fire sprinklers. The sprinkler system shall be monitored by a UL certified alarm service company.
- 44-45. The end of the drive aisle of the ~~shared~~ parking lot shall be identified as a fire lane and marked as per N.B.F.D. Guideline C.01.
- 45-46. Trash enclosures shall be located at least 5 feet from structures, unless, fire sprinklers are provided in the trash enclosure/structure.

- 46.47. A fuel modification plan shall be required for all landscape and must be submitted to the Fire Department. All requirements from N.B.F.D. Guideline G.02 "Fuel Modification Plans and Maintenance Standard" must be met. As per Guideline G.02. tree species are not allowed within 10 feet of combustible structures.

Building Division Conditions

- 47.48. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. The proposed residential dwelling units do not meet the definition of "townhouse" per CBC 202.
- 48.49. Full access compliance shall be demonstrated and provided in accordance with the February 8, 2012, Building Division letter, CBC 11A and CBC 11B at the time of permit application. The floor and seating plans submitted with the Project Review plans are for reference only. Subsequent plan changes may be required due to code changes prior to submittal for plan review and permitting. This project review does not constitute approval of the floor plans, parking, or other access compliance issues.
- 49.50. All sides of both the commercial and residential structures shall fully comply with the Special Fire Protection Area requirements at the time of permit submittal. These requirements may be found in CBC 7A, Newport Beach Municipal Code and related codes.
- 50.51. Prior to the issuance of building permits, a preliminary plan review meeting shall be scheduled with the Building Division.
- 51.52. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least 2 feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to five minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage car pooling for construction workers.

- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

52.53. Prior to issuance of grading permits, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.

53.54. A list of “good house-keeping” practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

54.55. The construction and equipment staging area shall be located in the least visually prominent area on the site, or another site approved by the Community Development Director, and shall be properly maintained and/or screened to minimize potential unsightly conditions.

55.56. A 6-foot-high screen and security fence shall be placed around the construction site during construction.

56.57. Construction equipment and materials shall be properly stored on the site when not in use.

Public Works Conditions

57.58. An encroachment permit is required for all work activities with the public right-of-way.

58.59. The parking lot layout shall comply with City Standard F#805-L-A&B and shall be approved by the Public Works Department prior to the issuance of building permits.

- | 59.60. All improvements adjacent to the proposed driveway approaches shall comply with the City's sight distance requirement, City Standard 110-L.
- | 60.61. In case of damage done to existing public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
- | 61.62. County Sanitation District fees shall be paid prior to the issuance of any building permits.
- | 62.63. Prior to commencement of demolition and grading of the project, the applicant shall submit a construction management and delivery plan to be reviewed and approved by the Public Works Department. The plan shall include discussion of project phasing; parking arrangements for both sites during construction; anticipated haul routes and construction mitigation. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan.
- | 63.64. Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.
- | 64.65. Each unit shall have a dedicated water service installed per STD-502-L or STD-503-L, depending on the size.
- | 65.66. New and existing fire services, when required by Fire Department shall be protected by a City approved double check detector assembly and installed per STD-517-L.
- | 66.67. New and existing commercial water meter(s) shall be protected by a City approved reduced pressure backflow assembly and installed per STD-520_L-A.
- | 67.68. Landscaping lines shall have a dedicated meter and shall be protected by a dedicated City approved reduced pressure backflow assembly per STD-520-L-A.
- | 68.69. The proposed driveway to the underground parking garage shall have a maximum slope of 15 percent and a maximum change of grade of 11 percent per City Standard #160-L-C.
- | 69.70. Prior to the issuance of a Certificate of Occupancy for the proposed structures, all public improvements shall be constructed as required by Ordinance and these conditions of approval.

Tract Map Conditions

1. A Final Tract Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.
2. Prior to recordation of the Final Tract Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. Prior to recordation of the Final Tract Map, the applicant shall provide a bond/surety in order to guarantee completion of all required public improvements. The bond/surety shall be reviewed and approved by the Public Works Department.
4. The existing concrete curb, gutter, and sidewalk along the East Coast Highway frontage shall be reconstructed, per City Standards.
5. The unused driveway approaches shall be abandoned and reconstructed with full height curb, gutter, and sidewalk per City Standard #165-L.
6. Proposed driveway approaches shall be constructed per City Standard #162-L.
7. The proposed storm drain relocation shall be subject to review and approval by the Public Works Department.
8. A variable width storm drain easement measured 5 feet from the westerly side of the centerline of the proposed new storm drain location to the easterly property line shall be granted to the City.
9. New 36-inch box street trees will be required to be planted on East Coast Highway. The designated street tree for this segment of East Coast Highway is the King Palm (Archontophoenix Cunningham). The number and location of these street trees are subject to approval by the Public Works Department and the Parks and Trees Division of the Municipal Operations Department.
10. Prior to or concurrently with the recordation of the Final Tract Map, an approximately 15-foot-wide access and utilities easement through the site adjacent to the eastern property line of 3928 East Coast Highway shall be vacated.

11. Prior to or concurrently with the recordation of the Final Tract Map, an existing slope and drainage easement at the southeast portion of the subject property will be realigned so that it will not conflict with the location of proposed structures.
12. Applicant is responsible for all upgrades to the City's utilities as required to fulfill the project's demand; a new 8-inch VCP sewer main shall be installed from the manhole at the Seaward Road/Coast Highway Intersection to the property's frontage. A new sewer main terminal cleanout shall be installed at the end of the new 8-inch BCP main per STD-400-L. Each unit shall have a dedicated sewer lateral with cleanouts installed per STD-406-L.
13. Prior to the recordation of the Final Tract Map, a park dedication fee for six dwelling units (currently \$26,125.00 per new additional dwelling unit) shall be paid in accordance with Chapter 19.52 of the Newport Beach Municipal Code. This fee shall be paid upon submittal of the map to the Public Works Department for plan check and deposited into the appropriate Service Area account as identified in the Recreation and Open Space Element of the General Plan.
14. The easterly property line of the proposed Lot 2 shall be revised on the Final Tract Map such that the prolongation of the easterly property line directly intersects with the rear property line (i.e. the approximately 82-square-foot notched area illustrated at the northeasterly corner of Lot 2 shall be made a part of Lot 2 and removed from Lot 1).

Attachment No. PC 3

Draft Resolution for Denial

RESOLUTION NO. #####

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING WITHOUT PREJUDICE CONDITIONAL USE PERMIT NO. UP2012-011, MODIFICATION PERMIT NO. MD2012-011, SITE DEVELOPMENT REVIEW NO. SD2012-001, TENTATIVE TRACT MAP NO. NT2012-001, AND VARIANCE NO. VA2012-002 FOR THE CONSTRUCTION OF A 2,160-SQUARE-FOOT COMMERCIAL OFFICE ADDITION AND SIX DWELLING UNITS LOCATED AT 3900 AND 3928 EAST COAST HIGHWAY (PA2010-061)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Marcelo E. Lische, the architect representing property owner, Magdi Hanna, with respect to property located at 3900 and 3928 East Coast Highway, and legally described as Lots 54, 55, 56, 57, 58, and portions of abandoned alley, Block B, Tract No. 673 requesting approval of a site development review, conditional use permit, modification permit, tentative tract map, and variance.
2. The project includes a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared surface parking lot. The following approvals are requested or required in order to implement the project as proposed:
 - a. A site development review to ensure compatibility with the site and surrounding land uses.
 - b. A conditional use permit to allow parking for nonresidential uses in a residential zoning district and to allow off-site parking.
 - c. A modification permit to allow a retaining wall up to 17 feet 2 inches in height, where the Zoning Code limits the height to 8 feet.
 - d. A variance for the residential structures to establish a 15-foot front setback and corresponding buildable area where a 20-foot setback is currently required.
 - e. A tentative tract map for condominium purposes and to consolidate five lots and portions of a vacated alley into two lots.
3. The subject property at 3900 East Coast Highway is located within the Commercial Corridor (CC) Zoning District and the General Plan Land Use Element category is Corridor Commercial (CC).

4. The subject property at 3928 East Coast Highway is located within the Multiple Residential (RM) Zoning District and the General Plan Land Use Element category is Multiple-Unit Residential (RM).
5. The subject properties are not located within the coastal zone.
6. A public hearing was held on December 6, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting. The Planning Commission voted to continue the item to the January 3, 2013 meeting.
7. A public hearing was held on January 3, 2013, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION

1. Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.

SECTION 3. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach does hereby deny without prejudice Site Development Review No. SD2012-001, Conditional Use Permit No. UP2012-011, Modification Permit No. MD2012-011, Variance No. VA2012-002, and Tentative Tract Map No. NT2012-001(PA2012-061).
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This Tentative Tract Map action shall become final and effective ten days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 3RD DAY OF JANUARY, 2013.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

Attachment No. PC 4

Planning Commission Minutes-
December 6, 2012

ITEM NO. 3 Plaza Corona del Mar (PA2010-061)
Site Location: 3900 and 3928 East Coast Highway

Assistant Planner Makana Nova presented details of the project addressing location, development standards, surrounding land uses, project components, floor area ratios for commercial districts, density requirements for residential uses, parking, existing conditions, consolidation of parcels, the vacated alley, proposed property lines, second-story addition, and existing curb configuration. She introduced the commercial component including the outdoor dining patio, addition of common and lobby areas, elevations, building height limits, parking for commercial properties, accessibility of parking, guest parking spaces, maintenance of adequate definition between the residential and commercial components and landscaping. She presented details regarding the proposed retaining wall and grade differentials, addition of planters and landscaping, and location of trash enclosures.

She presented details of the residential component addressing common open space areas, private open space areas, access to the units, subterranean garage, private garages for each unit, guest parking spaces, elevators, elevations, compliance with the height limit, variance required to establish a fifteen-foot setback along East Coast Highway and comparable floor areas. She addressed setback requirements, buildable areas, floor area limits, lot coverage and consistency with the adjacent developments relative to setbacks. Ms. Nova reported that regarding the variance, staff has considered the request and determined that it is consistent with the surrounding development pattern and that the lot coverage and floor-area limit area are also consistent. She noted that staff analyzed the project for CEQA and Coastal compliance and that the project is not located within the Coastal zone and does not have a land-use designation within the Coastal Land-Use Plan and addressed CEQA exemptions. She stated that the Commission has been provided with revised plans, a new copy of the bio-study and a draft resolution correcting grammatical errors.

Ms. Nova reported that the project is at the eastern entrance to Corona del Mar Village and that the property has been under-utilized for a long time. She concluded that staff believes the findings can be made in support of the project. She noted that staff has received no written correspondence regarding the project. There has been one inquiry requesting a staff report but neither in support or in opposition to the project.

Commissioner Tucker indicated he received comments regarding not needing more condominiums and complaining about additional traffic resulting from the project in the City. Ms. Nova clarified that comments were received from Jim Mosher.

Commissioner Tucker commented regarding documents governing reciprocal easements for parking and noted that the trash enclosure should be included in the document and that it should be clarified that each of the uses must have their own trash bins. He inquired about building over the existing Gallo's. Ms. Nova reported that the structure will be built over the existing Gallo's and that the exterior will be modified for consistency with the new structure.

Brief discussion followed regarding parking requirements and possible parking shortages.

Commissioner Tucker identified the need for commercial parking and the possibility of placing time limits on the guest parking spaces.

Chair Toerge invited the applicant and those interested to address the Commission on this item.

Marcelo Lische, Project Architect, addressed compliance with new Code requirements, previous approval of a specialty food use, conflicts with parking addressed through conditions of approval

(condition number 17), and limitation of hours for both uses for the shared parking. He noted that through the creation of CC&Rs the issue will be addressed as well.

Assistant City Attorney Leonie Mulvihill reported that the Commission could condition the matter either by a specific provision in the reciprocal easement agreement or within the CC&Rs restricting parking.

Magdi Hanna reported that originally, the project was going to be a car spa, but was prohibited because it was inconsistent with surrounding properties. He presented a brief history of the property and the intent of the proposed project.

Corona del Mar resident, Dan Purcell, addressed the vacated easement and noted that it is a lot of land to give away and has enabled the property owners to build larger units than they would have been able to do. He presented other options that would have been possible rather than giving away that land and encouraged maintaining the corridor view. He stated that there already is a development named Corona del Mar Plaza.

There being no others wishing to address the Commission, Chair Toerge closed the public hearing.

In response to an inquiry from Chair Toerge, Ms. Nova reported that the easement has already been vacated and that a portion was vacated at the last Council meeting. She noted that the portion contributed to the FAR for the proposed commercial development.

Ms. Nova introduced elevations of the residential portion of the project.

Chair Toerge re-opened the public hearing.

Mr. Lische explained the location of the fence, the separation between the building and the property line and addressed grading.

There being no others wishing to address the Commission, Chair Toerge closed the public hearing.

Chair Toerge addressed shared parking with the commercial uses and noted additional parking spaces are being added on the street. He encouraged restricting the use of the parking lot for commercial uses.

Discussion followed regarding the parking spaces required for the residential portion of the project.

Vice Chair Hillgren arrived at this juncture. (5:57 p.m.).

Commissioner Kramer stated that the project needs further consideration and thought, that the parking issue is problematic and inquired regarding the possibility of the applicant having to appear before the Planning Commission again for approval of design.

Ms. Nova stated that the applicant would not.

Commissioner Kramer was not satisfied with the data provided.

Commissioner Brown also addressed the parking issue.

Community Development Director Kimberly Brandt suggested that the item could be continued for additional information regarding the parking issue.

Vice Chair Hillgren noted that he was unable to hear the report and that if the Commission decides to take action at this time, he will abstain from voting.

Commissioner Tucker addressed the reciprocal access agreement for the joint use of the spaces but noted that the document lacks a maintenance protocol and felt that the mechanics on how it will work are unclear.

Discussion followed regarding a parking waiver of one parking space for residential and no residential parking on the commercial side.

Motion made by Chair Toerge and seconded by Commissioner Tucker and carried 6 – 0, to continue the project until the Planning Commission meeting of January 3, 2013.

Commissioner Kramer indicated that he will confer with staff after the meeting to clarify what he would like to project to address.

Commissioner Tucker requested clarifying some items within the conditions of approval including documenting easement agreements before issuance of a building permit/certificate of occupancy, indicating that each use gets the right to use one of the areas for the trash bin, exclusively and establishing a time limit for residential parking uses of the shared parking areas.

AYES:	Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None
ABSTENTIONS:	None
ABSENT (Excused):	Ameri

Attachment No. PC 5

Public Comment Letters

To: PLANNING_COMMISSION
Subject: Additional Materials Received

Item No. 3c: Additional Materials Received
Planning Commission December 6, 2012
Plaza Corona del Mar (PA2012-061)

From: Lady Dy <Lady.dy@sbcglobal.net>
Date: December 9, 2012, 4:19:03 PM PST
To: dcampagnolo@newportbeachca.gov
Subject: Planning Commission

Please carefully consider the impact of approval of a horizontal mixed-use development with six detached dwelling units above a common subterranean parking structure, a 2,160-square-foot office addition above an existing 535-square-foot delicatessen (Gallo's Deli), and a 10-space shared surface parking lot.

Parking and safety are already a concern. The ability for cars to make a u-turn at Seaward already creates a dangerous situation. Add to that cars entering and exiting a garage and you have chaos.

D Fullerton

To: PLANNING_COMMISSION
Subject: Additonal Materials Received

Item No. 3c: Additional Materials Received
Planning Commission December 6, 2012
Plaza Corona del Mar (PA2012-061)

From: NewProp@aol.com [<mailto:NewProp@aol.com>]
Sent: Wednesday, December 05, 2012 8:32 AM
To: bhillgren@highrhodes.com; strataland@earthlink.net; ameri@rbf.com; jaymyers5@cox.net;
korykramer@gmail.com; tucker@gtpccenters.com; tim-brown@sbcglobal.net; info@cdmra.org
Subject: Dec 6 Agenda Item: Plaza CdM Comments

Condos sounds like a ghastly idea. The PCH traffic through CdM is awful as is. What we love about CdM is that it is a low-residency town. Why ruin that? Just some greedy developer wanting to cash in, with no regard to the neighbors, I bet.

Liz Swiertz Newman
22 Skysail Drive
CdM 92625

To: PLANNING_COMMISSION
Subject: Additional Materials Received

Item No. 3c: Additional Materials Received
Planning Commission December 6, 2012
Plaza Corona del Mar (PA2012-061)

-----Original Message-----

From: I.N. Botnick [<mailto:inbotnick@gmail.com>]
Sent: Monday, December 03, 2012 6:55 PM
To: bhillgren@highrhodes.com; strataland@earthlink.net; ameri@rbf.com;
jaymyers5@cox.net; korykramer@gmail.com; tucker@gtpcenters.com;
tim-brown@sbcglobal.net; info@cdmra.org
Subject: Dec 6 Agenda Item: Plaza CdM Comments

I do not want building on that property because it can block my view.
If view blocking is not a problem then all is ok to proceed.

Sent from my iPad

I.N. Botnick
510 Hazel Dr.
Corona Del Mar, CA 92625
(949) 285-8113

To: PLANNING_COMMISSION
Subject: ADDITIONAL MATERIALS RECEIVED

Item No. 3c: Additional Materials Received
Planning Commission December 6, 2012
Plaza Corona del Mar (PA2012-061)

From: Charlie Hobbs [<mailto:hobbs@ieee.org>]
Sent: Monday, December 03, 2012 5:51 PM
To: bhillgren@highrhodes.com; strataland@earthlink.net; ameri@rbf.com; jaymyers5@cox.net;
korykramer@gmail.com; tucker@gtpccenters.com; tim-brown@sbcglobal.net; info@cdmra.org
Subject: Dec 6 Agenda Item: Plaza CdM Comments

Traffic on Coast Highway in that area is already heavy enough without adding more
Condos and retail stores.

Linder Hobbs
4701 Surrey Drive
Corona Del Mar. Ca

To: PLANNING_COMMISSION
Subject: ADDITIONAL MATERIALS RECEIVED

Item No. 3c: Additional Materials Received
Planning Commission December 6, 2012
Plaza Corona del Mar (PA2012-061)

From: Dominic Boitano [<mailto:domboitano@gmail.com>]
Sent: Monday, December 03, 2012 5:26 PM
To: bhillgren@highrhodes.com; strataland@earthlink.net; ameri@rbf.com; jaymyers5@cox.net; korykramer@gmail.com; tucker@gtpccenters.com; tim-brown@sbcglobal.net; info@cdmra.org
Subject: Dec 6 Agenda Item: Plaza CdM Comments

Good evening. Unfortunately I cannot attend the PC meeting on Dec 6, however here are some comments after my quick review of the staff report.

1. The retaining wall in the NW corner of the property looks like it could turn into an eye sore. It would be great it could be reduced in height through revising the elevations of the project. At any height, it should be thoroughly screened with lush landscaping and other materials that would lessen the visual impact.
2. I am concerned that traffic on PCH could be impacted by the residents and commercial trips generated by this project. And I do not mean just because of additional trips, but rather the fact that traffic will have to merge with PCH. Would it help to consolidate the curb cuts into a single curb cut?
3. The existing building that houses the deli is old. The staff report seems to indicate this space is being saved, even with a substantial addition being added on top of the existing structure. It seems like this would be difficult to achieve for such an old building. Is it being brought up to code? What improvements are necessary to the existing structure? Why not demolish the existing structure and being a completely new building?
4. The project appears to drain directly into the creek. It would be good to make sure that all site drainage is being treated appropriately.

Thank you!

Dominic Boitano
831-521-6215
domboitano@gmail.com

To: PLANNING_COMMISSION
Subject: Additional Materials Received

Item No. 3c: Additional Materials Received
Planning Commission December 6, 2012
Plaza Corona del Mar (PA2012-061)

From: Jones Gayle [<mailto:gjones@snyderlangston.com>]
Sent: Monday, December 03, 2012 5:18 PM
To: bhillgren@highrhodes.com; strataland@earthlink.net; ameri@rbf.com; jaymyers5@cox.net;
korykramer@gmail.com; tucker@gtpcenters.com; tim-brown@sbcglobal.net; info@cdmra.org
Subject: Dec 6 Agenda Item: Plaza CdM Comments

One of these days, the owner should be allowed to building SOMETHING on this property. I suppose a smallish office building would be the best bet for the neighbors. Underground parking would be great, but this may not be economically feasible.

(Mrs.) Gayle Jones
Shore Cliffs

Note: I have replaced the coma after each address with a semi-colon; otherwise the e-mail will not successfully get transmitted.

Attachment No. PC 6

Applicant's Description and Justification

Plaza del Mar, Inc.

3345 Newport Blvd, # 203, Newport Beach, CA 92663

Tel 949 723-2000 Fax 949 723-0500 e-mail magercan@aol.com

December 20, 2012

**City of Newport Beach
Planning Department
Newport Blvd, Newport Beach, CA 92663**

**Ref: Plaza Corona del Mar Project
Character of Gallo's Italian Deli**

Dear Sirs:

Gallo's has been a local landmark since 1973. Three generations of clientele have been served at Gallo's. I have been a witness to a grand mother telling a young girl with her that she used to bring the girls' mother to Gallo's when she was her age.

I personally live around the corner at 500 Hazel Dr., and feel that Gallo's is adding to the ambience of the old village. It is a unique eccentric old store with traditions that connects the present with the past.

We will leave the interior intact. However, we will add a handicap restroom and modify the exterior appearance to make it compatible with the rest of the Plaza CDM project.

Please note that if Gallo's were erased to be replaced by a brand new shiny store, it would be more economical. But then, it would loose all its character and become another Subway. It would also be a let down to many of loyal local customers, who got used to the store as it has always been. It is our duty to continue the traditions first started by Joe Gallo, in 1973.

Yours truly,

Magdi R. Hanna, P.E.

PLAZA CORONA DEL MAR, Mixed –Use Project
3900 & 3928 E. Coast Highway
Corona del Mar, Ca. 92625

PROJECT REQUIREMENTS:

The proposed project requires **Planning Commission Major Review** for **Site Plan Review**, **CUP** (to allow parking for non residential uses in a residential zoning district and to allow approval of off-site parking), **Tentative Tract Map** (for Condominium purposes and to combine lots 55, 56, 57 & 58 into a single parcel, and the incorporation of a “paper alley” to Lot 2), **Modification Permit** (to request an increase in the height of the retaining wall at the NW corner Property line), **Alternative front setback Variance** for the residential portion of the project and **CDP** (Coastal Development Permit for the project located within the Coastal Zone).

The proposed project is consistent with the General Plan and Zoning Code. CC commercial for Lot 2 “Gallo’s” and Office Building, and RM for Lot 1, multi-family residential.

The project provides safe pedestrian and vehicular access, proper and water-efficient landscape planting in open space areas and proper use of the open space.

The project provides adequate and efficient use of the space in terms of mass, scale, aesthetics and relationship with neighboring properties.

The project does not affect or impact any significant “Public Views” per NBMC 20.30.100. The project will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood.

The land developer also owns the lot west to the property, currently occupied by “Gallo’s Deli”. The proposed Tentative Parcel Map includes Parcel 1 (Residential Condominiums) and Parcel 2 (Gallo’s Deli and Office Building).

To allow commercial parking in Lot 1 (residential) a **CUP** will be required. The proposed commercial parking is right next to “Gallo’s” and the proposed Office building. None “On-street” parking is being counted towards meeting the parking requirements. The use of the parking facility will be permanently available, marked, and maintained for the use is intended to serve, and will not create undue traffic hazards or impacts in the surrounding area.

GENERAL PROJECT DESCRIPTION:

Formerly occupied by a Unocal Gas Station, the site has been vacant since 1992 and was subject of different studies for commercial uses including the later proposed Car Dealer in 1999.

The proposed Mixed Use Project consist of 6 detached-3 story Residential Condominiums with underground parking garage, and a new Office Building above the existing “Gallo’s” Deli (to remain under Specialty Food Permit # 38).

The project is proposed to be built in 2 Phases: Phase #1 Condominiums, Phase #2, Office Building.

Each Residential Unit has an enclosed private 2 car garage within the underground parking. A private elevator connects the individual garages with each 3 story Unit above. One of the Units will be handicap accessible in compliance with ADA requirements. Handicap parking will be provided accordingly.

One Handicap parking stall for residential visitors will be provided at street level within the commercial parking lot. Proper signage will show exclusive use for the residential visitors. Also adequate general signage will establish hours of use for commercial parking (8:00 AM to 6:00 PM) and residential (6:00 PM to 8:00 AM) Given the size of the residential lot, basement access ramp and configuration, it will be very difficult to provide the required handicap visitors parking at the basement level. Plus it will require the addition of a full size ADA common elevator from the garage basement to the entry plaza for which there is no available room. The proposed solution of surface parking with proper signage will be efficient and comply with the City and Building Codes requirements.

The decision of creating 6 distinct detached Units (Townhome like) was made to break-up and reduce the building mass, avoiding the creation of a "Shoe Box" like massive design. The requested 15' front setback Variance and proper landscaping helps to soften-up the streetscape and create a smooth transition between the commercial and residential uses on Coast Highway. **All neighboring residential uses in Coast highway have a 15' front setback.**

The RM maximum allowable building height of 28' / 33' allows developing detached 3 story units of about 2,000 SF each, creating a diverse and more interesting roof lines. Applicable building codes are: 2010 CBC-CMC-CPC-CEC and 2008 T-24 Energy Code, and California Green Code

Both Commercial and Residential Buildings will be Fully Sprinklered.

Building materials: parking garage basement will be poured in place concrete footings, slab, walls and lid, (Type 1-A construction) providing 3-HR separation with the units above (Type V-B construction).

The Commercial Building ("Gallo's" and Second Floor Office) will be Type V-B Construction.

Both Residential Condos and Office Building will be light gauge steel framing.

Architectural style for all buildings will be Soft Contemporary, with the incorporation of a warm color pallet.

Exterior materials will be smooth stucco and horizontal wood cedar siding. Exterior openings will be dual glaze anodized aluminum windows and doors. Balcony railings will be tempered glass. All exterior walls, balconies, decks and eaves will be 1-Hr. construction. Roofing will be Class "A" standing seam metal for the Condos and Class "A" Built-up low slope (1/4"/12") for the Office Building . Insulation values will comply with T-24 and Acoustic Study, R-19 for exterior walls and R-30 for roofs.

Note: Existing Gallo's Deli building to be refurbished outside with new smooth stucco and new dual-glaze aluminum windows to match Office building materials and color pallet. New Blue awning will be installed to identify Gallo's brand.

The proposed project will be a perfect fit and transition of uses, building massing, and density between all others surrounding the site, and will become the right missing link to complete the urban fabric and streetscape in the south end of Corona del Mar.

Marcelo E. Lische, Architect AIA

Attachment No. PC 7

Project Plans

109

BEING A SUBDIVISION OF LOTS 54, 55, 56, 57 AND 58 IN BLOCK "B" OF TRACT NO. 673, IN THE CITY OF NEWPORT BEACH, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 20, PAGES 17 & 18 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

OCTOBER, 2012



UNBID
LOT 54 IS OCCUPIED BY A RESIDENTIAL
LOT 55, 56, 57 AND 58 ARE UNBID
BROTHERS SCHOOL
LOT 59 IS BEING USED FOR COMMERCIAL PURPOSES
LOT 60, 61, 62 AND 63 ARE UNBID (WILL BE BUILT FOR LOW INCOME HOUSING)
PROPOSED SCHOOL
NAME AS BROTHERS
FLOOD AREA "X"
AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE
FLOOD PLAIN
FIRM JAMES WATKINS
10001 HIGH PARK HAZARD MAP/ETC ZONE

OWNER / SUBDIVIDER:

**WHERE HUNG,
BRIE HANFORD ALYS,
HAWKPORT BEACH, CA 94024
PHONE (415) 751-0001**

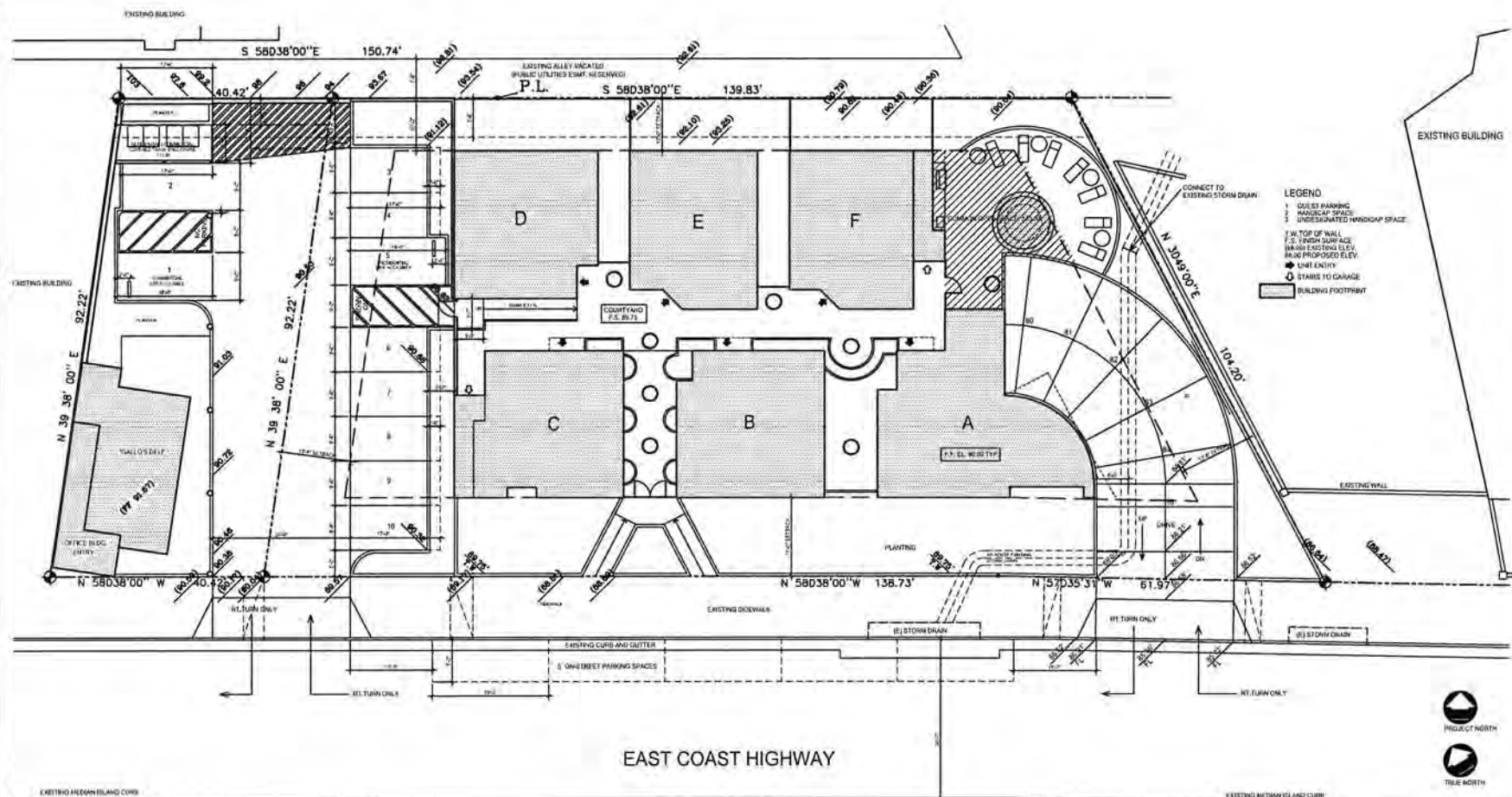
MAP PREPARER:

JAY ZIMMERMAN
JOHN LA DORIA JR.
LADINA HILL, CA 92020
(714) 724-8722

2010 KAPLAN PRACTICE EXAM

- [illegible]





OFFICE BUILDING - LOT 2

ZONE: CC OCCUPANCY TYPE: B CONSTRUCTION TYPE: V-B
FULLY SPRINKLERED

SETBACKS:
FRONT: 0 FT.
SIDE: 5 FT.
REAR: 5 FT. ADJACENT TO RESIDENTIAL

HEIGHT LIMIT:
32' FOR FLAT ROOF

OFFICE: 1/250 2,160 SF / 250 = 9 SPACES
GALLO'S DELI: NONE (SPECIALTY FOOD PERMIT # 39, 6/28/18)
PROVIDED: 9 SPACES, INCLUDING 1 HANDICAP VAN ACCESSIBLE

F.A.R.: 0.25
PROPERTY: 3,876 SF
MAXIMUM BUILDABLE: 3,876 SF + 0.75 = 2,757 SF
PROPOSED BUILDING AREA: 2,846 SF
PROPOSED COVERED TRASH ENCLOSURE AREA: 96 SF

DETACHED CONDOMINIUMS - LOT 1

ZONE: RM
Dwellings: OCCUPANCY R-2 CONSTRUCTION TYPE: V-B FULLY SPRINKLERED
GARAGE: OCCUPANCY TYPE S-2 CONSTRUCTION TYPE: V-A
FULLY SPRINKLERED

SETBACKS:
PROPOSED FRONT: 18 FT.
SIDE: 5 FT. OF AVERAGE LOT WIDTH (148' + 189'2" + 170.5' x .58 = 12'-6"
REAR: 10 FT.

HEIGHT LIMIT:
20 FT. FOR FLAT ROOFS, 33 FT. FOR SLOPED ROOFS (MAX. 312')

REQUIRED PARKING:
UNITS REQUIRED: 2 PER UNIT
PROVIDED: 12
(207 SQ. FT. AREA CREDIT FOR EACH ENCLOSED
REQUIRED PARKING SPACE, 200 X (1 + 2,300 SQ. FT. CREDIT))

GUEST REQUIRED: 0.5 PER UNIT X 60 = 3
GUEST PARKING PROVIDED: 2,510 SQ. FT. SIDEWALKWAY
PLUS 1 HC VAN ACCESSIBLE AT GROUND FLOOR

AREAS:
PROPERTY: 15,405 S.F.
SETBACKS: 5,300 S.F.
BUILDABLE: 1,177 S.F.

ALLOWABLE AREA: 1.50 X 9,175 = 13,762 S.F.

UNIT A:
1st FLOOR 105 SF
2nd FLOOR 902 SF
THIRD FLOOR 620 SF
TOTAL LIVING: 2,627 SF
GARAGE (+400 S.F.) 115 SF
TOTAL: 3,772 SF
PRIVATE OPEN SPACE: 319 SF (11.45 %)

UNIT B:
1st FLOOR 743 SF
2nd FLOOR 650 SF
THIRD FLOOR 626 SF
TOTAL LIVING: 2,019 SF
GARAGE (+400 S.F.) 115 SF
TOTAL: 2,434 SF
PRIVATE OPEN SPACE: 158 SF (7.42 %)

UNIT C: (HANDICAP ACCESSIBLE)
1st FLOOR 731 SF
2nd FLOOR 728 SF
THIRD FLOOR 731 SF
TOTAL LIVING: 2,189 SF
GARAGE (+400 S.F.) 115 SF
TOTAL: 2,503 SF
PRIVATE OPEN SPACE: 158 SF (7.22 %)

UNIT D:
1st FLOOR 710 SF
2nd FLOOR 641 SF
THIRD FLOOR 642 SF
TOTAL LIVING: 1,993 SF
GARAGE (+400 S.F.) 115 SF
TOTAL: 2,198 SF
PRIVATE OPEN SPACE: 158 SF (7.22 %)

UNIT E:
1st FLOOR 1672 SF
2nd FLOOR 568 SF
THIRD FLOOR 568 SF
TOTAL LIVING: 1,808 SF
GARAGE (+400 S.F.) 115 SF
TOTAL: 1,923 SF
PRIVATE OPEN SPACE: 408 SF (21.21 %)

UNIT F:
1st FLOOR 1554 SF
2nd FLOOR 683 SF
THIRD FLOOR 683 SF
TOTAL LIVING: 2,920 SF
GARAGE (+400 S.F.) 115 SF
TOTAL: 2,325 SF
PRIVATE OPEN SPACE: 272 SF (13.46 %)

BASEMENT AREA: 6,648 SF
NOTE: 3,311 S.F. GUEST PARKING AND VEHICULAR
AREAS NOT INCLUDED.

COMMON OPEN SPACE REQUIRED: 75 SF PER UNIT
9 X 75 = 675 SF
COMMON OPEN SPACE PROVIDED: 533 SF (OUTSIDE SETBACK AREAS)

PRIVATE OPEN SPACE REQUIRED: 3% OF UNIT GROSS FLOOR AREA
PROPOSED COVERED TRASH ENCLOSURE AREA: 96 SF

HORIZONTAL ASSEMBLY BETWEEN BASEMENT GARAGE (TYPE I-A) AND
CONDOMINIUMS ABOVE (TYPE V-B) SHALL BE MINIMUM 3 IN. AND COMPLY
CBC SOK 4, SOK 4.301.4, SOK 4 AND TABLE 601

TOTAL UNIT AREA: 13,975 SF
GARAGE STAIRS: 128 SF
TOTAL AREA: 13,753 SF

CLIENT:
MR. MAGDI HANNA
3742 NEWPORT BLVD.
NEWPORT BEACH, CA 92663

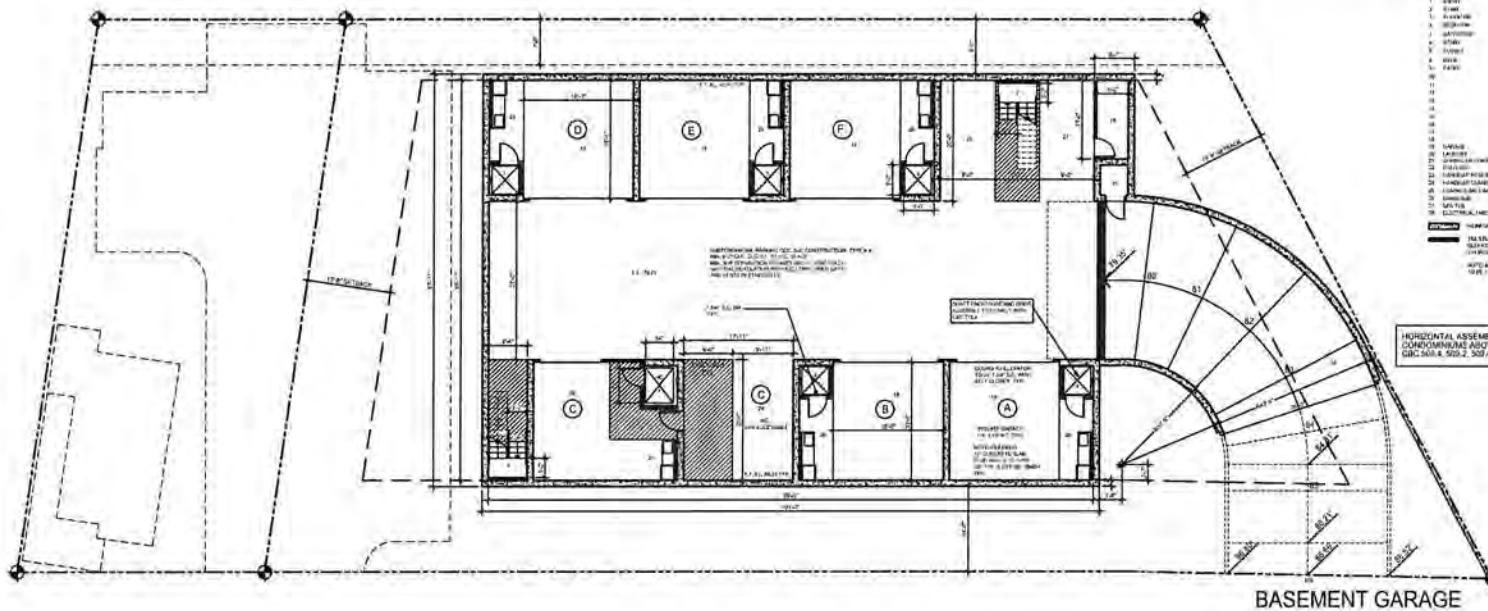
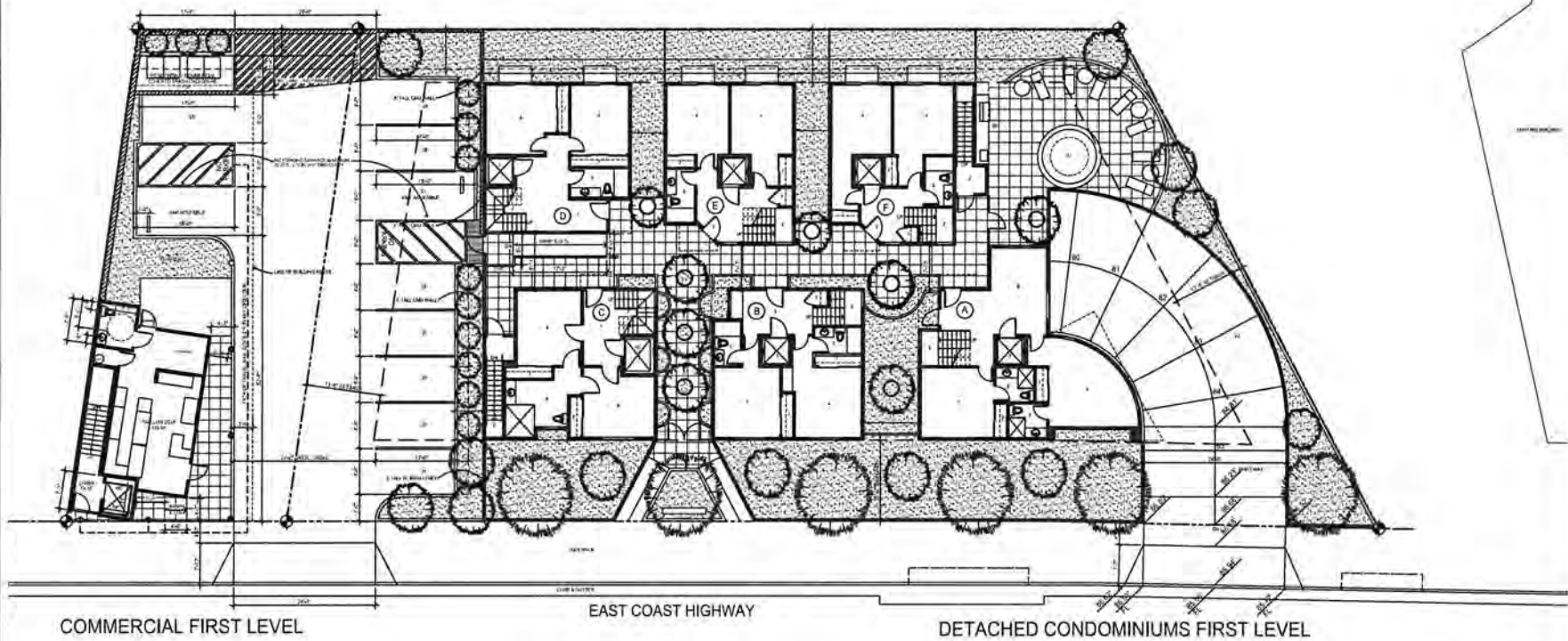
PROJECT:
PLAZA CORONA DEL MAR
HAKED USE PROJECT
3818 E. COAST HIGHWAY
CORONA DEL MAR, CA 92626

SHEET TITLE:
SITE PLAN

DATE: 10/18/2018
DRAWN BY: [Signature]
CHECKED BY: [Signature]
SCALE: 1" = 10'-0"

REVISIONS:
1. [Signature] 10/18/2018
2. [Signature] 10/18/2018
3. [Signature] 10/18/2018
4. [Signature] 10/18/2018
5. [Signature] 10/18/2018
6. [Signature] 10/18/2018
7. [Signature] 10/18/2018
8. [Signature] 10/18/2018
9. [Signature] 10/18/2018
10. [Signature] 10/18/2018

A-1



- LEGEND
- 1. DRIVE
 - 2. DRIVE
 - 3. DRIVE
 - 4. DRIVE
 - 5. DRIVE
 - 6. DRIVE
 - 7. DRIVE
 - 8. DRIVE
 - 9. DRIVE
 - 10. DRIVE
 - 11. DRIVE
 - 12. DRIVE
 - 13. DRIVE
 - 14. DRIVE
 - 15. DRIVE
 - 16. DRIVE
 - 17. DRIVE
 - 18. DRIVE
 - 19. DRIVE
 - 20. DRIVE
 - 21. DRIVE
 - 22. DRIVE
 - 23. DRIVE
 - 24. DRIVE
 - 25. DRIVE
 - 26. DRIVE
 - 27. DRIVE
 - 28. DRIVE
 - 29. DRIVE
 - 30. DRIVE
 - 31. DRIVE
 - 32. DRIVE
 - 33. DRIVE
 - 34. DRIVE
 - 35. DRIVE
 - 36. DRIVE
 - 37. DRIVE
 - 38. DRIVE
 - 39. DRIVE
 - 40. DRIVE
 - 41. DRIVE
 - 42. DRIVE
 - 43. DRIVE
 - 44. DRIVE
 - 45. DRIVE
 - 46. DRIVE
 - 47. DRIVE
 - 48. DRIVE
 - 49. DRIVE
 - 50. DRIVE
 - 51. DRIVE
 - 52. DRIVE
 - 53. DRIVE
 - 54. DRIVE
 - 55. DRIVE
 - 56. DRIVE
 - 57. DRIVE
 - 58. DRIVE
 - 59. DRIVE
 - 60. DRIVE
 - 61. DRIVE
 - 62. DRIVE
 - 63. DRIVE
 - 64. DRIVE
 - 65. DRIVE
 - 66. DRIVE
 - 67. DRIVE
 - 68. DRIVE
 - 69. DRIVE
 - 70. DRIVE
 - 71. DRIVE
 - 72. DRIVE
 - 73. DRIVE
 - 74. DRIVE
 - 75. DRIVE
 - 76. DRIVE
 - 77. DRIVE
 - 78. DRIVE
 - 79. DRIVE
 - 80. DRIVE
 - 81. DRIVE
 - 82. DRIVE
 - 83. DRIVE
 - 84. DRIVE
 - 85. DRIVE
 - 86. DRIVE
 - 87. DRIVE
 - 88. DRIVE
 - 89. DRIVE
 - 90. DRIVE
 - 91. DRIVE
 - 92. DRIVE
 - 93. DRIVE
 - 94. DRIVE
 - 95. DRIVE
 - 96. DRIVE
 - 97. DRIVE
 - 98. DRIVE
 - 99. DRIVE
 - 100. DRIVE

HORIZONTAL ASSEMBLY BETWEEN BASEMENT GARAGE (TYPE M) AND CONDOMINIUMS ABOVE (TYPE J-2) SHALL BE SEISMIC J-2 AND COMPLY WITH 2015 IBC 1805.4 AND TABLE 601

CLIENT:
MIL. MARI HANNA
3340 NEWPORT BLVD.
NEWPORT BEACH, CA 92661

PROJECT:
PLAZA CORONA DEL MAR
MARI HANNA PROJECT
3318 E. COAST HIGHWAY
CORONA DEL MAR, CA 92626

SHEET TITLE:
BASEMENT GARAGE &
FIRST FLOOR PLAN

DATE: 10/1/2015
DRAWN BY: J. HANNA
CHECKED BY: J. HANNA
SCALE: 1/8" = 1'-0"

REVISIONS:

- 1. 10/1/2015
- 2. 10/1/2015
- 3. 10/1/2015
- 4. 10/1/2015
- 5. 10/1/2015
- 6. 10/1/2015
- 7. 10/1/2015
- 8. 10/1/2015
- 9. 10/1/2015
- 10. 10/1/2015
- 11. 10/1/2015
- 12. 10/1/2015
- 13. 10/1/2015
- 14. 10/1/2015
- 15. 10/1/2015
- 16. 10/1/2015
- 17. 10/1/2015
- 18. 10/1/2015
- 19. 10/1/2015
- 20. 10/1/2015
- 21. 10/1/2015
- 22. 10/1/2015
- 23. 10/1/2015
- 24. 10/1/2015
- 25. 10/1/2015
- 26. 10/1/2015
- 27. 10/1/2015
- 28. 10/1/2015
- 29. 10/1/2015
- 30. 10/1/2015
- 31. 10/1/2015
- 32. 10/1/2015
- 33. 10/1/2015
- 34. 10/1/2015
- 35. 10/1/2015
- 36. 10/1/2015
- 37. 10/1/2015
- 38. 10/1/2015
- 39. 10/1/2015
- 40. 10/1/2015
- 41. 10/1/2015
- 42. 10/1/2015
- 43. 10/1/2015
- 44. 10/1/2015
- 45. 10/1/2015
- 46. 10/1/2015
- 47. 10/1/2015
- 48. 10/1/2015
- 49. 10/1/2015
- 50. 10/1/2015
- 51. 10/1/2015
- 52. 10/1/2015
- 53. 10/1/2015
- 54. 10/1/2015
- 55. 10/1/2015
- 56. 10/1/2015
- 57. 10/1/2015
- 58. 10/1/2015
- 59. 10/1/2015
- 60. 10/1/2015
- 61. 10/1/2015
- 62. 10/1/2015
- 63. 10/1/2015
- 64. 10/1/2015
- 65. 10/1/2015
- 66. 10/1/2015
- 67. 10/1/2015
- 68. 10/1/2015
- 69. 10/1/2015
- 70. 10/1/2015
- 71. 10/1/2015
- 72. 10/1/2015
- 73. 10/1/2015
- 74. 10/1/2015
- 75. 10/1/2015
- 76. 10/1/2015
- 77. 10/1/2015
- 78. 10/1/2015
- 79. 10/1/2015
- 80. 10/1/2015
- 81. 10/1/2015
- 82. 10/1/2015
- 83. 10/1/2015
- 84. 10/1/2015
- 85. 10/1/2015
- 86. 10/1/2015
- 87. 10/1/2015
- 88. 10/1/2015
- 89. 10/1/2015
- 90. 10/1/2015
- 91. 10/1/2015
- 92. 10/1/2015
- 93. 10/1/2015
- 94. 10/1/2015
- 95. 10/1/2015
- 96. 10/1/2015
- 97. 10/1/2015
- 98. 10/1/2015
- 99. 10/1/2015
- 100. 10/1/2015

A-2

TARGET
E-USE THE
STANDARD
A-3

CLIENT:
MR. MACCHI HANNA
3045 NEWPORT BLVD.
NEWPORT BEACH, CA 92661

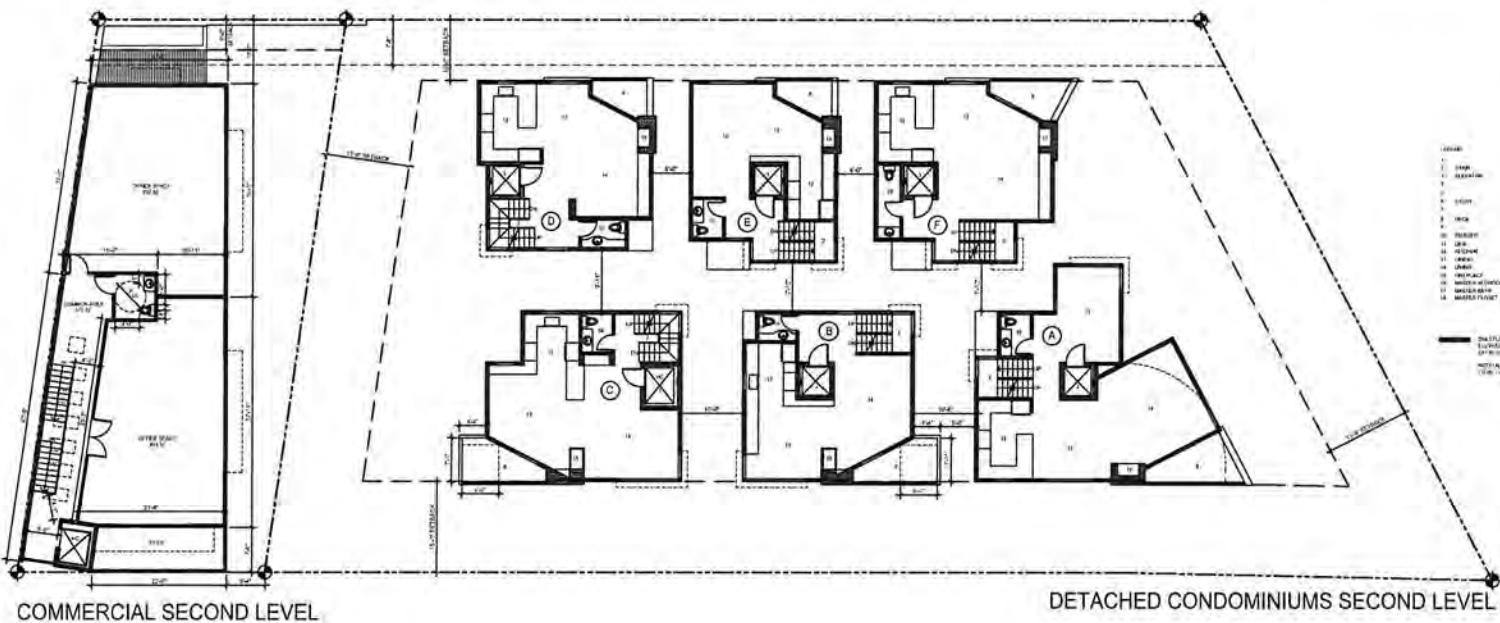
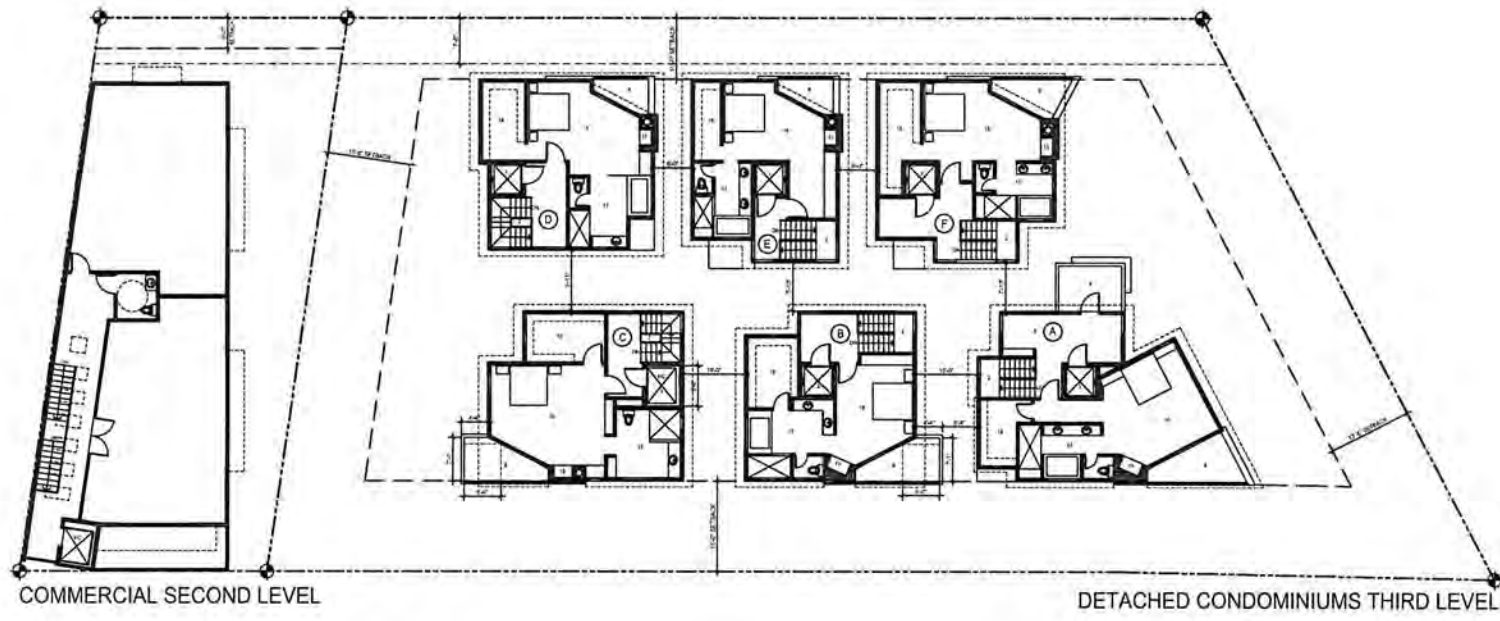
PROJECT:
PLAZA CORDONA DEL MAR
MIXED USE PROJECT
3818 E. COAST HIGHWAY
CORDONA DEL MAR, CA 92625

SHEET TITLE:
SECOND & THIRD FLOOR PLAN

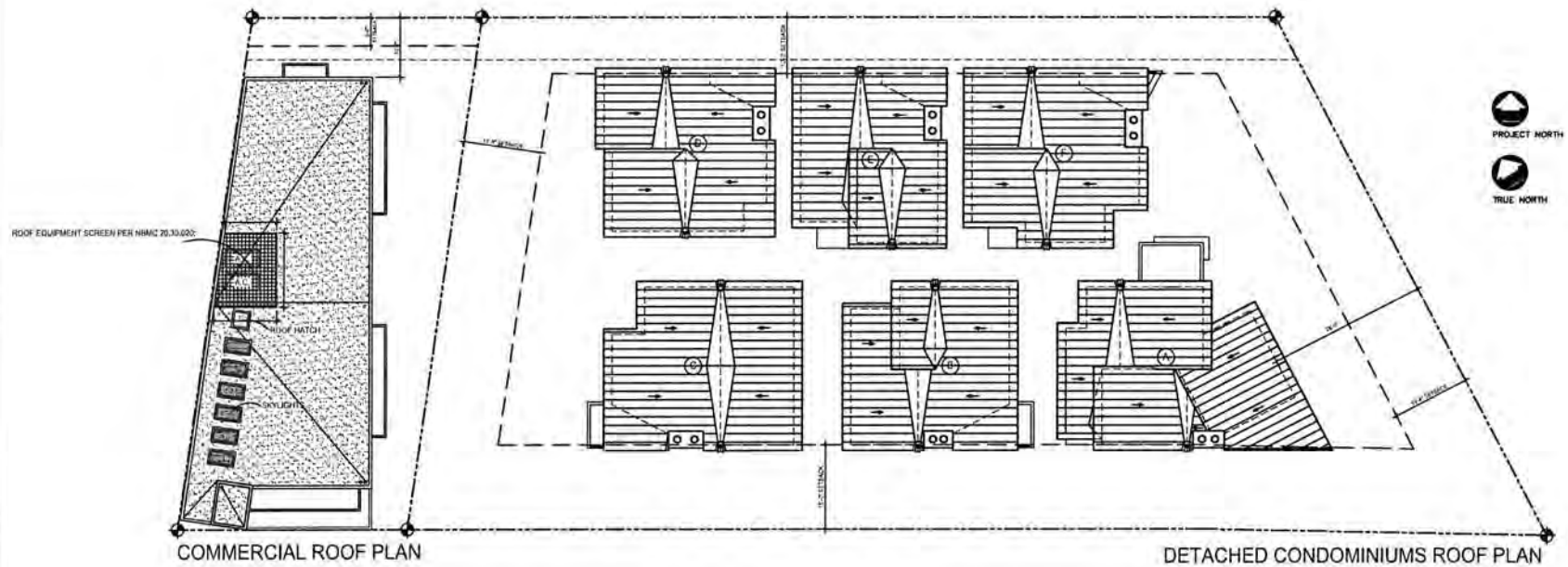
DATE: 08/11/2011
DRAWN BY: JH
CHECKED BY: JH
SCALE: 1/8"=1'-0"
DATE: 08/11/2011

- △
- △
- △
- △
- △
- △
- △
- △

A-3



- 1. STAIR
- 2. ELEVATOR
- 3. STAIR
- 4. STAIR
- 5. STAIR
- 6. STAIR
- 7. STAIR
- 8. STAIR
- 9. STAIR
- 10. STAIR
- 11. STAIR
- 12. STAIR
- 13. STAIR
- 14. STAIR
- 15. STAIR
- 16. STAIR
- 17. STAIR
- 18. STAIR
- 19. STAIR
- 20. STAIR
- 21. STAIR
- 22. STAIR
- 23. STAIR
- 24. STAIR
- 25. STAIR
- 26. STAIR
- 27. STAIR
- 28. STAIR
- 29. STAIR
- 30. STAIR
- 31. STAIR
- 32. STAIR
- 33. STAIR
- 34. STAIR
- 35. STAIR
- 36. STAIR
- 37. STAIR
- 38. STAIR
- 39. STAIR
- 40. STAIR
- 41. STAIR
- 42. STAIR
- 43. STAIR
- 44. STAIR
- 45. STAIR
- 46. STAIR
- 47. STAIR
- 48. STAIR
- 49. STAIR
- 50. STAIR
- 51. STAIR
- 52. STAIR
- 53. STAIR
- 54. STAIR
- 55. STAIR
- 56. STAIR
- 57. STAIR
- 58. STAIR
- 59. STAIR
- 60. STAIR
- 61. STAIR
- 62. STAIR
- 63. STAIR
- 64. STAIR
- 65. STAIR
- 66. STAIR
- 67. STAIR
- 68. STAIR
- 69. STAIR
- 70. STAIR
- 71. STAIR
- 72. STAIR
- 73. STAIR
- 74. STAIR
- 75. STAIR
- 76. STAIR
- 77. STAIR
- 78. STAIR
- 79. STAIR
- 80. STAIR
- 81. STAIR
- 82. STAIR
- 83. STAIR
- 84. STAIR
- 85. STAIR
- 86. STAIR
- 87. STAIR
- 88. STAIR
- 89. STAIR
- 90. STAIR
- 91. STAIR
- 92. STAIR
- 93. STAIR
- 94. STAIR
- 95. STAIR
- 96. STAIR
- 97. STAIR
- 98. STAIR
- 99. STAIR
- 100. STAIR



NOTE:
 ROOFING MATERIALS:
 CLASS "A" STANDING SEAM METAL ROOF @ TOWNHOMES, SLOPE 3:12
 FLAT ROOF: CLASS "A" BUILT-UP ROOF @ COMMERCIAL BUILDING, SLOPE 1/4:12

NOTE:
 SEE EXTERIOR ELEVATIONS FOR COMPLIANCE WITH MAX. BUILDING HEIGHT

CLIENT:
 MFL KADEH HANNA
 5345 NEWPORT BLVD.
 NEWPORT BEACH, CA 92643

PROJECT:
 PLAZA CORONA DEL MAR
 MIXED USE PROJECT
 3918 E. COAST HIGHWAY
 CORONA DEL MAR, CA 92625

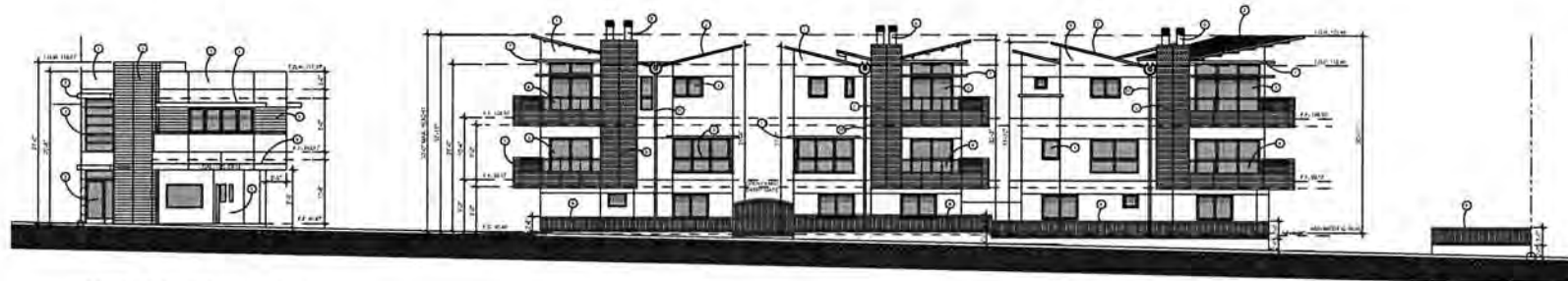
SHEET TITLE:
 ROOF PLAN

DATE: 10/1/2020
 DRAWN BY: JH
 CHECKED BY: JH
 SCALE: 1/8" = 1'-0"
 UNIT: 1/8" = 1'-0"

REVISIONS:

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

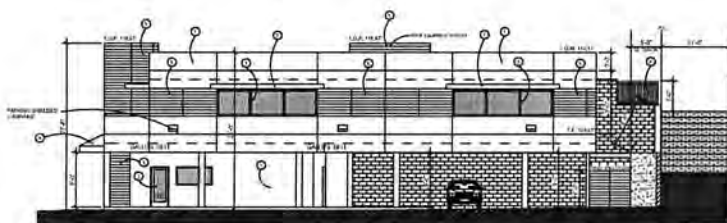
A-4



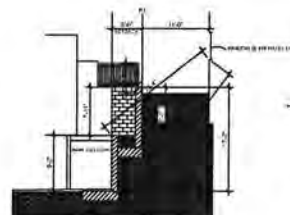
SOUTH ELEVATION (street front)



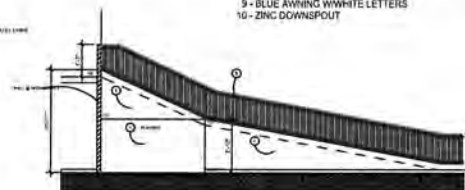
NORTH ELEVATION



OFFICE BUILDING EAST ELEVATION



RETAINING WALL SECTION AT ALLEY



RETAINING WALL ELEVATION AT ALLEY

BUILDINGS EXPOSED TO SPECIAL FIRE HAZARD ZONE
NOTE: ALL EXTERIOR WALLS, DOORS AND WINDOWS
TO BE 1HR ASSEMBLY
BUILDINGS ARE FULLY SPRINKLERED

EXTERIOR MATERIALS:
1 - 7/8" SMOOTH STUCCO, COLOR TO BE DETERMINED
2 - CLASS "A" STANDING SEAM ZINC METAL ROOFING
3 - DUAL GLAZE ANODIZED ALUMINUM WINDOWS AND DOORS
4 - TEMPERED GLASS RAILINGS
5 - 4" CEDAR SIDING VENEER
6 - ZINC VENEERED CHIMNEY AND SPAR ARRESTER
7 - ZINC VENEERED MARQUEES
8 - DARK GREEN W. IRON FENCE
9 - BLUE ABRING WHITE LETTERS
10 - ZINC DOWNSPOUT

MARCELO
E. LISCHKE
Architect
A.I.A.

CLIENT:
MR. MAGGI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA 92661

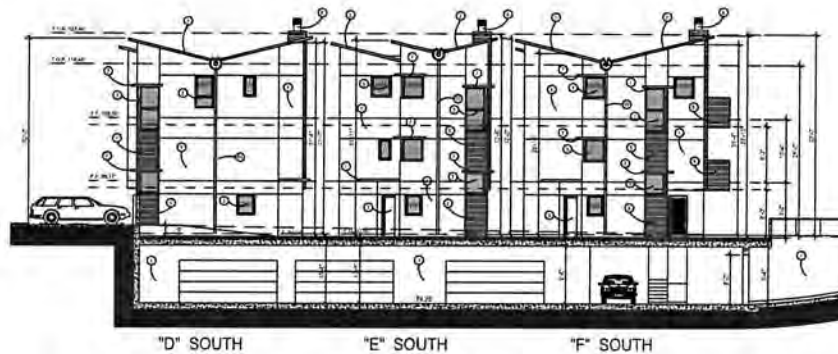
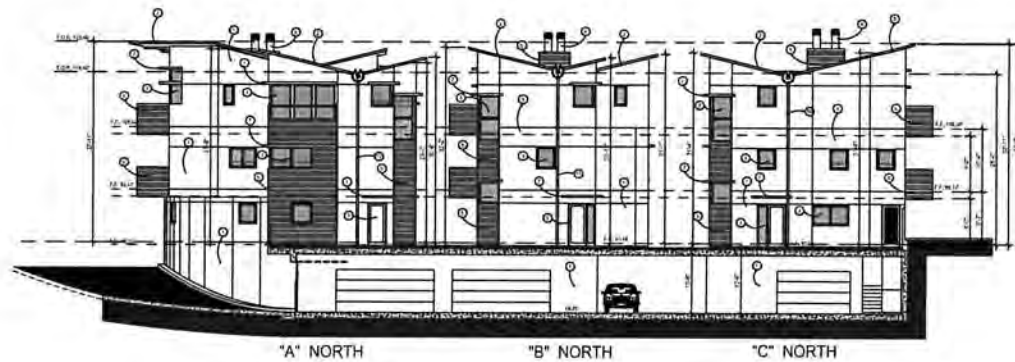
PROJECT:
PLAZA CORDINA DEL MAR
HARDY LUG PROJECT
3818 E. COAST HIGHWAY
CORDINA DEL MAR, CA 92622

SHEET TITLE:
EXTERIOR ELEVATIONS

DATE: 10/10/10
DRAWN BY: [signature]
CHECKED BY: [signature]
SCALE: 1/4" = 1'-0"
SHEET: 10 OF 10

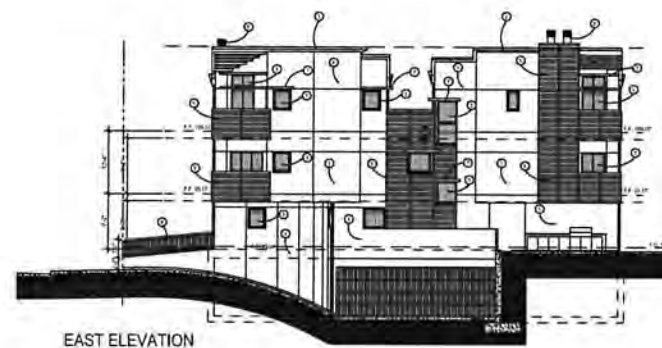
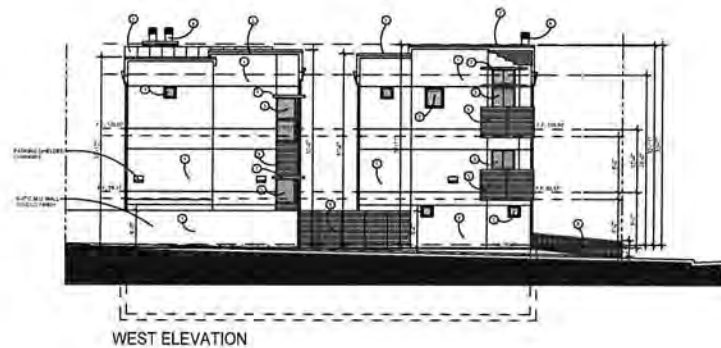
REVISIONS:
1. [signature] 10/10/10
2. [signature] 10/10/10
3. [signature] 10/10/10
4. [signature] 10/10/10
5. [signature] 10/10/10
6. [signature] 10/10/10
7. [signature] 10/10/10
8. [signature] 10/10/10
9. [signature] 10/10/10
10. [signature] 10/10/10

A-5



BUILDINGS EXPOSED TO SPECIAL FIRE HAZARD ZONE
NOTE: ALL EXTERIOR WALLS, DOORS AND WINDOWS
TO BE 1HR ASSEMBLY
BUILDINGS ARE FULLY SPRINKLERED

EXTERIOR MATERIALS:
1 - 7/8" SMOOTH STUCCO, COLOR TO BE DETERMINED
2 - CLASS "A" STANDING SEAM ZINC METAL ROOFING
3 - DUAL GLAZE ANODIZED ALUMINUM WINDOWS AND DOORS
4 - TEMPERED GLASS RAILINGS
5 - 4" CEDAR SIDING VENEER
6 - ZINC VENEERED CHIMNEY AND SPAR ARRESTER
7 - ZINC VENEERED MARQUEES
8 - DARK GREEN W. IRON FENCE
9 - BLUE AWNING W/WHITE LETTERS
10 - ZINC DOWNSPOUT



MARCELO
E. LISCHKE
Architect
A.I.A.

CLIENT:
MR. MAGGI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA 92661

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA 92625

SHEET TITLE:
EXTERIOR ELEVATIONS

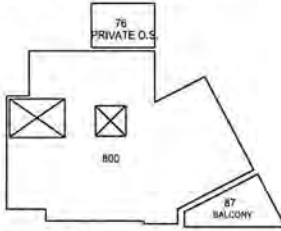
FOR THE ARCHITECT AND ENGINEER, THE ARCHITECT AND ENGINEER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE ARCHITECT AND ENGINEER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE ARCHITECT AND ENGINEER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.

DATE: 01/11/2011
DRAWN BY: [REDACTED]
CHECKED BY: [REDACTED]
SCALE: 1/8"=1'-0"
SHEET: 01

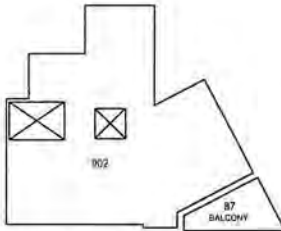
REVISIONS:
1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]

A-6

UNIT "A" FLOOR AREA



THIRD FLOOR



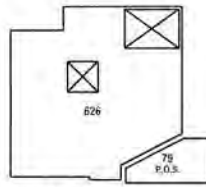
SECOND FLOOR



FIRST FLOOR

NOTE: ELEVATOR AREA IS COUNTED AT BASEMENT ONLY.
PRIVATE STAIR AREA IS COUNTED ONLY AT FIRST FLOOR

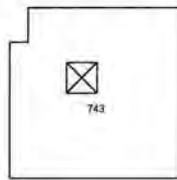
UNIT "B" FLOOR AREA



THIRD FLOOR

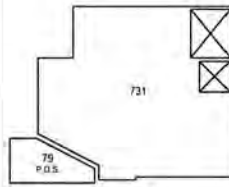


SECOND FLOOR

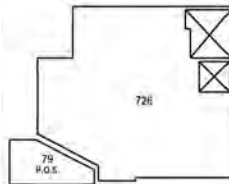


FIRST FLOOR

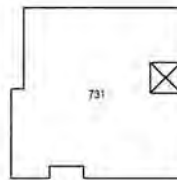
UNIT "C" FLOOR AREA



THIRD FLOOR



SECOND FLOOR

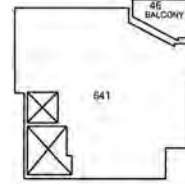


FIRST FLOOR

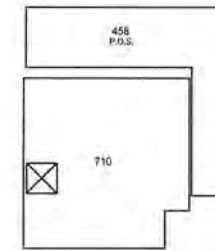
UNIT "D" FLOOR AREA



THIRD FLOOR



SECOND FLOOR



FIRST FLOOR

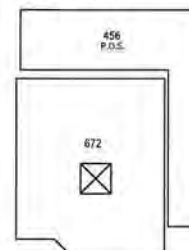
UNIT "E" FLOOR AREA



THIRD FLOOR



SECOND FLOOR



FIRST FLOOR

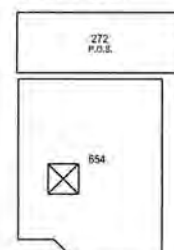
UNIT "F" FLOOR AREA



THIRD FLOOR



SECOND FLOOR



FIRST FLOOR

CLIENT:
MR. MAGGI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3818 E. COAST HIGHWAY
CORONA DEL MAR, CA 92625

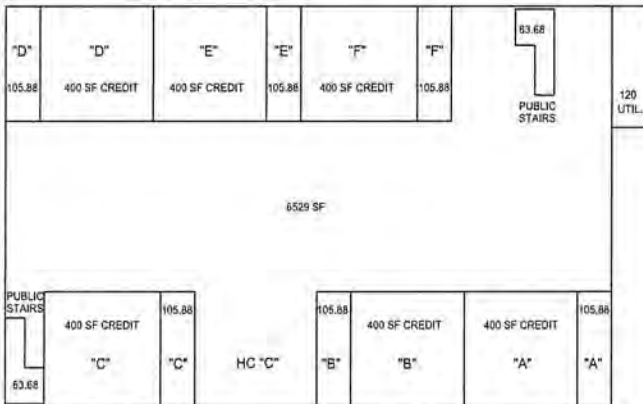
SHEET TITLE:
FLOOR AREA CALCULATION

Prepared by: [Signature]
Checked by: [Signature]
Reviewed by: [Signature]
Date: 10/10/2018

FILE:
NAME: [Signature]
DATE: 10/10/2018
SCALE: 1/8"=1'-0"

NO. OF SHEETS:
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

A-F.A.
10/10/2018



SUBTERRANEAN PARKING

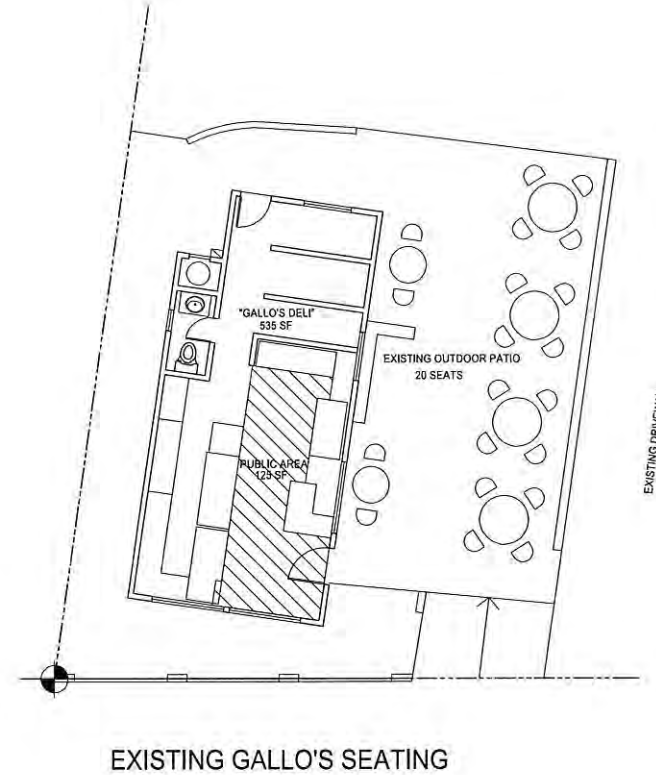
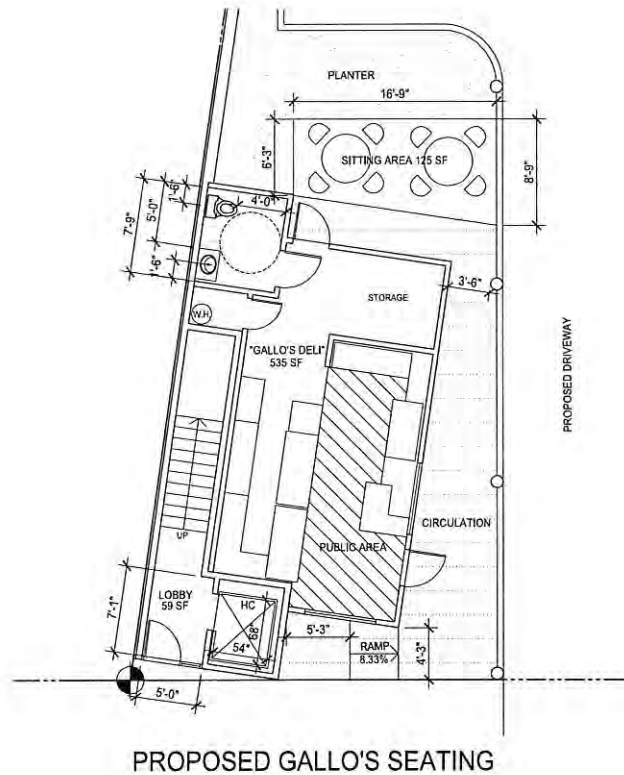


SECOND FLOOR COMMERCIAL



FIRST FLOOR COMMERCIAL

NOTE: ELEVATOR STAIR AREA IS COUNTED AT 2ND FLOOR ONLY
OFFICE LOBBY AREA IS COUNTED AT 1ST. FLOOR ONLY



MARCELO E. LISCHKE Architect A.I.A.

CLIENT:
MR. MAGDI HANNA
3345 NEWPORT BLVD.
NEWPORT BEACH, CA 92663

PROJECT:
PLAZA CORONA DEL MAR
MIXED USE PROJECT
3918 E. COAST HIGHWAY
CORONA DEL MAR, CA 92625

SHEET TITLE:
EXISTING AND PROPOSED
GALLO'S SEATING
ARRANGEMENT

DATE: 10/10/14
DRAWN BY: M.
CHECKED BY: M.
SCALE: 1/8"=1'-0"
DATE: 10/10/14

REVISIONS:

- △
- △
- △
- △
- △
- △
- △
- △

A-GS

1. ALL WORK SHALL CONFORM TO THE REQUIREMENTS OF ALL APPLICABLE BUILDING CODES, ORDINANCES, THE PROJECT SPECIFICATIONS AND ALL APPLICABLE REGULATIONS, ORDINANCES AND STANDARDS.
2. SURVEY SHALL BE CONTROLLED BY THE CONTRACTOR'S BEST QUALITY PRACTICES.
3. EXISTING FACILITIES SHALL BE MAINTAINED TO THE BEST DEGREE DURING THE CONSTRUCTION PERIOD.
4. WORK AREAS AND LIMITED PAVED AREAS TO BE EXPOSED SHOULD PROTECT GRASS TO REMAIN VISIBLE, AND ARE TO BE RESEEDED IMMEDIATELY AFTER CONSTRUCTION OF THE PROJECT IS COMPLETED.
5. WORK, MATERIALS, EQUIPMENT AND METHODS SHALL BE SUBJECT TO INSPECTION AND USE AT ALL TIMES OF THE AGENCY.
6. THE USE OF ANY MATERIALS OR METHODS SHALL BE SUBJECT TO THE AGENCY'S USE AT ALL TIMES OF THE AGENCY.
7. FURNISHING AND DELIVERING MATERIALS AND EQUIPMENT SHALL BE SUBJECT TO THE AGENCY'S USE AT ALL TIMES OF THE AGENCY.
8. APPROVED CONTRACTORS, SUBCONTRACTORS AND PROTECTIVE MEASURES SHALL BE USED TO PROTECT EXISTING FACILITIES DURING THE CONSTRUCTION PERIOD.
9. CONSTRUCTION AND REPAIRS SHALL BE MAINTAINED IN COMPLIANCE WITH THE TOWNSHIP PLANNING CODE AND APPROVED BY THE TOWNSHIP ENGINEER.
10. ALL WORK SHALL BE COMPLETED BY THE END OF THE CONSTRUCTION PERIOD, AND THE TOWNSHIP ENGINEER SHALL BE NOTIFIED OF THE COMPLETION OF THE PROJECT.
11. THE TOWNSHIP ENGINEER SHALL BE NOTIFIED OF ANY CHANGES TO THE PROJECT, INCLUDING ANY CHANGES TO THE PROJECT SPECIFICATIONS, AND SHALL BE NOTIFIED OF ANY CHANGES TO THE PROJECT SPECIFICATIONS.
12. ALL PLANTING SHALL BE COMPLETED BY THE END OF THE CONSTRUCTION PERIOD, AND THE TOWNSHIP ENGINEER SHALL BE NOTIFIED OF THE COMPLETION OF THE PROJECT.

4. TEMPORARY SPRINKLER CONTROLS PLANS ARE REQUIRED FROM OCTOBER 15 TO MAY 15.
5. SPINKER CONTROLS, DEVICES SHALL BE AVAILABLE ON-SITE BETWEEN OCTOBER 15 AND MAY 15.
6. BETWEEN OCTOBER 15 AND MAY 15, SPINKER CONTROLS REQUIRED SHALL BE IN PLACE AT THE END OF EACH WORKING DAY TO MINIMIZE THE FIVE-DAY PROBABILITY OF FIRE EXCESSIVE IN PROPORTION. DURING THE TEMPORARY PERIOD, THEY SHALL BE IN PLACE AT THE END OF THE WORKING DAY, WHENEVER THE ONLY RAINFALL PROBABILITY EXCEEDS IN PROPORTION.
7. TEMPORARY EXISTING BARRIERS, WHEN REQUIRED, SHALL BE INSTALLED AND MAINTAINED FOR THE DURATION OF THE PROJECT.

4. A PRE-CONING MEETING SHALL BE SCHEDULED 14 HOURS PRIOR TO START OF CONING WITH THE FOLLOWING PARTICIPANTS: OWNER, AGGRESSOR CONTRACTOR, DISBURD CHAIR, DISBURD, SOLE DISBURD, DISBURD, CITY BUILDING INSPECTOR OR THEIR REPRESENTATIVES. REQUIRED FIELD INSPECTORS WILL BE OBTAINED AT THE MEETING.

5. A PRE-PAVING MEETING SHALL BE SCHEDULED 14 HOURS PRIOR TO START OF THE SUB-GRASS PREPARATION FOR PAVING WITH THE FOLLOWING PARTICIPANTS: OWNER, PAVING CONTRACTOR, DISBURD CHAIR, DISBURD, SOLE DISBURD, CITY BUILDING INSPECTOR OR THEIR REPRESENTATIVES. REQUIRED FIELD INSPECTORS WILL BE OBTAINED AT THE MEETING.

3. UNFILLED BLOWER SHALL BE NO STEEPER THAN 1 HORIZONTAL TO 1 VERTICAL.
4. FILL BLOWER SHALL BE CONNECTED TO NO LINE THIN IN PERCENT RELATIVE COMPACTION CLUT TO THE PROVIDED BLANKET.
5. ALL FILL SHALL BE COMPACTED THROUGHOUT TO A MINIMUM OF 90 PERCENT RELATIVE COMPACTION AS DETERMINED BY AT LEAST TWO TESTS AND APPROVED BY THE SOIL ENGINEER. COMPACTION TESTS SHALL BE PERFORMED APPROXIMATELY 2 FEET FIRST IN VERTICAL HEIGHT AND OF SUFFICIENT QUANTITY TO ATTEST TO THE GENERAL APPROXIMATION OF FORCE APPLIED TO THE FILL AREAL.
6. JAWA TO FINISH FILL SHALL BE CLAIMED OF ALL VIBRATION AND OTHER, SCANNED AND APPROVED BY THE

6. ALL EXISTING IRRIGATION LINES AND CISTERNS SHALL BE REMOVED OR CHANGED TO BE IN PLACE AND BACKFILLED AND APPROVED BY THE SLOES ENGINEER.

10. ALL TRENCH SHIELDS SHALL BE COMPLETED THROUGHOUT TO A MINIMUM OF 85 PERCENT RELATIVE COMPLETION, AND APPROVED BY THE BOLA ENGINEER. SHOULD EXCAVATION DEVELOPE ANY GEOLOGICAL HAZARD OR POTENTIAL GEOLOGICAL HAZARD, THE ENGINEERING DEPARTMENT SHALL REEXAMINE AND SUBMIT NECESSARY TREATMENT TO THE BUILDING DEPARTMENT FOR APPROVAL.

11. THE RECOUPMENT OF EXCAVATION MATERIAL SHALL BE APPROVED BY THE BUILDING DEPARTMENT.

12. LANDSCAPING OF ALL EROSION AND PACE SHALL BE IN ACCORDANCE WITH CHAPTER 13 OF THE B.M.C.

13. ALL SOIL BORING SHALL BE INVESTIGATED BOTH DURING AND AFTER DRIVING BY AN ENGINEERING GEOLOGIST TO DETERMINE IF ANY STABILITY PROBLEMS EXIST. SHOULD EXCAVATION DEVELOPE ANY GEOLOGICAL HAZARD

14. WHERE SUPPORT OR BUTTRESSING OF CUT AND NATURAL SLOPE IS DETERMINED TO BE NECESSARY BY THE ENGINEERING GEOLOGIST AND SOILS ENGINEER, THE SOILS ENGINEER WILL OBTAIN A LIST OF ORDERS, LOCATION AND CALCULATIONS FROM THE BUILDING DEPARTMENT PRIOR TO CONSTRUCTION.

15. THE ENGINEERING GEOLOGIST AND SOILS ENGINEER SHALL INSPECT AND TEST THE CONSTRUCTION OF A BUTTRESS PIER AND ATTEST TO THE STABILITY OF THE SLOPE AND ADJUST STRUCTURE UPON COMPLETION.

16. WHEN CUT PANS ARE INSTALLED TO MAINTAIN THE ENGINEERING GEOLOGIST SHALL DETERMINE IF THE BEDROCK IS EXTENSIVELY FRACTURED OR FALLOUTS AND WILL REPAIR, TRANSFER WEIGHT, IF CONSIDERED NECESSARY BY THE ENGINEERING GEOLOGIST AND SOILS ENGINEER, A COMPACTED PAIL BLANKET WILL

16. NOTIFICATIONS OF NONCOMPLIANCE IF, IN THE COURSE OF FULFILLING THEIR RESPONSIBILITY, THE CIVIL ENGINEER, THE SOLE ENGINEER, THE ENGINEERING GEOLOGIST OR THE TESTING AGENCY FINDS THAT THE WORK IS NOT BEING DONE IN CONFORMANCE WITH THE APPROVED GRADING PLANS, THE DISCREPANCIES SHALL BE REPORTED IMMEDIATELY IN WRITING TO THE PERSON IN CHARGE OF THE WORKING WORKFOLD TO THE BUILDING INSPECTOR, RECOMMENDATIONS FOR CORRECTIVE MEASURES, IF NECESSARY, SHALL BE SUBMITTED TO THE BUILDING DEPARTMENT FOR APPROVAL.

3. **AD-ADULT** GRADING PLAN SHALL BE PREPARED BY THE CIVIL ENGINEER HOLDING GRADING, GROUND BLENDED, ELEVATION, LOT DRAINAGE PATTERNS AND LOCATION, AND ELEVATIONS OF ALL SURFACE AND SUBSURFACE DRAINAGE STRUCTURES. THE GRADING PLAN SHALL BE PREPARED IN ACCORDANCE WITH THE FINAL PROVIDED GRADING PLAN AND EXISTE THE NUMBER OF STAKES OF 20' AND 10' STAKES, MOVED DURING THE OPERATION.

4. **POLD** GRADING REPORT PREPARED BY THE HOLD ENGINEER, INCLUDING LOCATION, LOCATION AND ELEVATION OF HOLD GRADING TESTS, SURVEYING OF FIELD AND LABORATORY RESULTS AND OTHER SUBSTANTIATED DATA, AND COMMENTS ON ANY CHANGES MADE DURING GRADING AND THEIR EFFECT ON THE DOCUMENTATION. THE HOLD ENGINEER SHALL BE RESPONSIBLE FOR THE GRADING REPORT. THE GRADING REPORT SHALL BE THE BASIS FOR THE HOLD ENGINEERING INVESTIGATION REPORT. HE SHALL PROVIDE WRITTEN APPROVAL, AS TO THE ADEQUACY OF THE SITE FOR THE INTENDED USE AND COMPLETION OF WORK IN ACCORDANCE WITH THE JOB.

1. A GEOLOGIC GRADING REPORT PREPARED BY THE SHEPPARDSON GEOLOGIST, INCLUDING A FINAL DESCRIPTION OF THE GEOLOGY OF THE SITE, INCLUDING ANY NEW INFORMATION DISCLOSED DURING AND THE EFFECT OF SAME ON RECOMMENDATIONS INCORPORATED IN THE APPROVED GRADING PLAN. HE/SH/IT SHALL PROVIDE WRITTEN APPROVAL, AS TO THE ADEQUACY OF THE SITE FOR THE INTENDED USE AS AFFECTED BY GEOLOGIC FACTORS.

3900 E. COAST HIGHWAY

[illegible]

© 2006 Blackwell Publishing Ltd, *Journal of Internal Medicine* 260: 101–108

46. IN CASE OF AN EMERGENCY CALL, PLEASE PHONE AT PHONE NUMBERS:

47. YOUR NAME AND PHONE FOR EMERGENCY WORK SHALL BE MADE AVAILABLE AT ALL TIMES DURING THE PLANT SEARCH. NECESSARY MATERIALS SHALL BE AVAILABLE ON SITE AND STOCKPILED AT DESIGNATED LOCATIONS TO FACILITATE RAPID COMPLETION OF TEMPORARY DEVICES WHEN NEEDED.

46. ALL REMOVABLE BROADBAND PROTECTIVE DEVICES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN THE BROADBAND PROTECTIVE DEVICES ARE.

47. AFTER A TRANSFORMER ALL BUS AND CABLES SHALL BE REMOVED FROM STREETS, CROSS BARS AND BARS.

48. EXPOSED AREAS ON THE PERMITTED LAYER PERIMETER MUST BE CLEANED UP FROM THE FACE OF EXPOSED AT THE COMPLETION OF EACH WORKING DAY. ORANGE IS TO BE USED FOR TOWNSHIP AND THE FACILITY.

16. THE PERMITTEE AND CONTRACTOR SHALL IMPROVE THE EROSION CONTROL WORK AND BE SURE THAT THE WORK IS IN ACCORDANCE WITH THE APPROVED PLAN.

ENVIRONMENTAL NOTES

16. THE PERMITTEE SHALL NOTIFY ALL GENERAL CONTRACTORS, SUBCONTRACTORS, MATERIAL SUPPLIERS, LESSEES, AND FREIGHT CONTRACTORS TO DISPOSE OF OR INCLUDE INTO THE STORM DRAIN SYSTEM ON THE FACILITIES IN PROGRESS.

17. PERMITTEE SHALL MAINTAIN DEMONSTRATION SITE IN SUCH A MANNER THAT AN APPROVED STORM DRAIN SYSTEM IS NOT OBSCURED.

CLIMATE CONTROL, PERMITTED SHALL CONSIST OF SUCH MATERIALS AS A LUMINOUS AND CONTROLLED TEMPERATURE AREA OR SITE, ACTIVELY OPERATED FROM PETROLEUM, HYDROCARBON FLAMMABLE LIQUIDS, OR IN ASSOCIATION WITH LOGS, SPACE AND PERFORMING INSUFFICIENTLY.

10. CONSENTING TO DECONTAMINATED/DECONTAMINATION OPERATIONS DECONTAMINATES BOTH THE SUBJECT AND PERSONS IN PROXIMITY. CONSENTING TO NON-DECONTAMINATED/DECONTAMINATION ENDOWS A MULTITUDE, POLLUTANT AND/OR ILLNESS. PERSONS MUST HAVE THE RESPECTIVE STATE REGIONAL WATER QUALITY CONTROL BOARD.

THE CONTRACTOR SHALL VERIFY LOCATION AND BURIAL OF EXISTING UTILITIES PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR ASSUMES THE LIABILITY AND RESPONSIBILITY FOR THE PROTECTION OF THE UTILITY PIPES, CONSULTS OF STRUCTURES, SHOWN OR NOT SHOWN ON THESE PLANS.

THE OWNER/ENGINEER SHALL NOT BE RESPONSIBLE IN ANY WAY FOR THE CONTRACTOR'S AND SUBCONTRACTOR'S COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH REGISTRATION OF THE U.S.

CONTRACTOR FURTHER AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR ANY AND ALL DECISIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL CONVEY, NECESSARILY BY THE TERMS OF THIS AGREEMENT, AND SHALL ENJOY THE BENEFIT OF THE SAME, ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DIVISION OR THE DESIGNER.

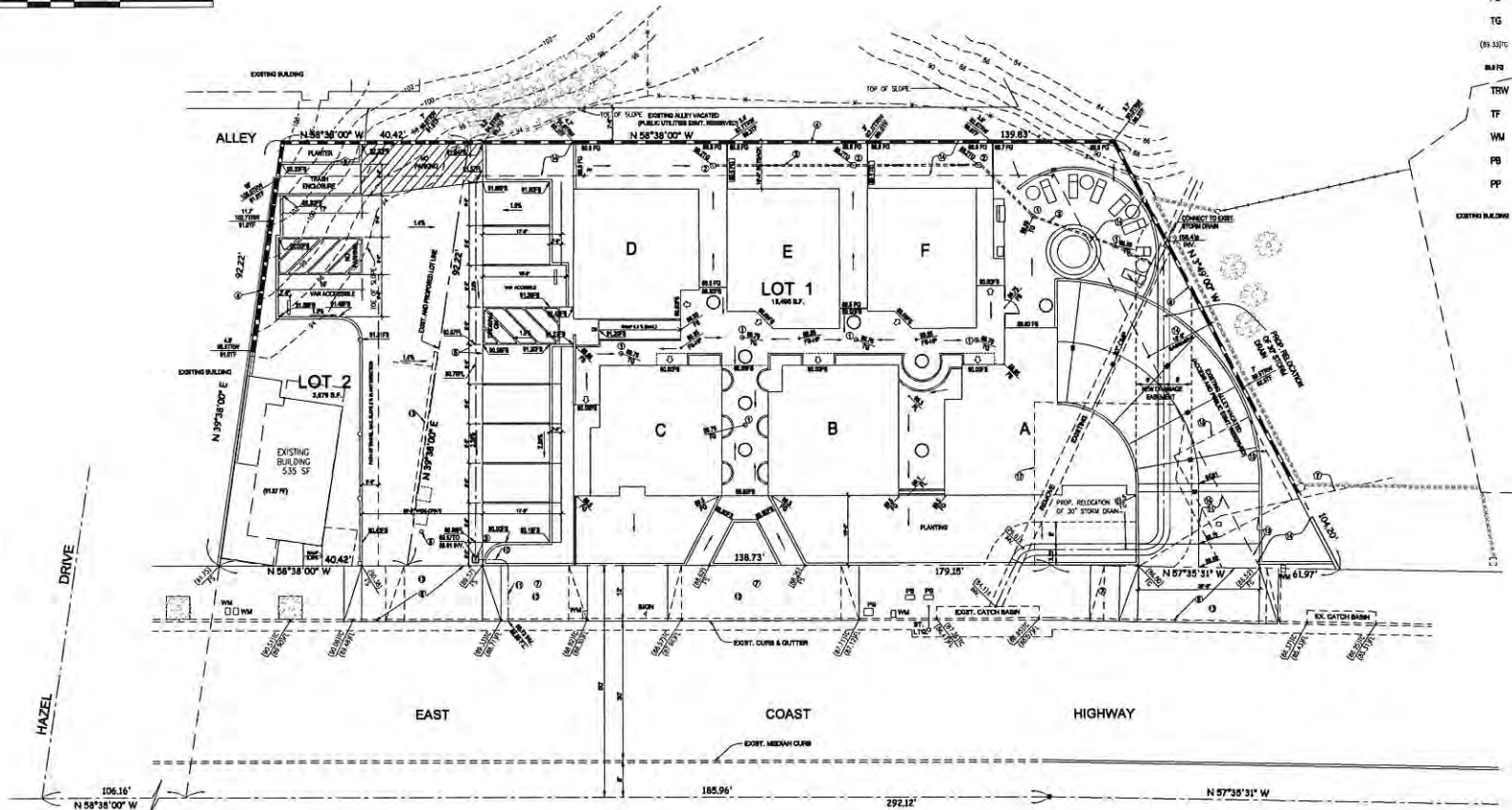
AREA 18/19 B.F.

EARTHWORK QUANTITIES ARE FOR CITY PLANT CHECK PURPOSES ONLY. CONTRACTOR TO FURNISH HIS OWN QUANTITIES ESTIMATE.

TENTATIVE TRACT

DATE	OWNER FILE	CHRG BY	DATE
------	------------	---------	------

100



- ### CONSTRUCTION NOTES:
1. INSTALL 1/2" DIA. AREA DRAIN AND ADAPTER PER HIDE AND OR APPROVED EQUIVALENT.
 2. INSTALL 1/2" DIA. AREA DRAIN PER BRONCO PRODUCTS NO. 12-123 BRONCO OR APPROVED EQUIVALENT.
 3. INSTALL 1/2" DIA. PVC PIPE.
 4. CONSTRUCT PERMITTED WALL.
 5. CONCT. CONC. 4" VOTCH 3" HIDE.
 6. CONCT. DRAINAGE PER CITY OF NEWPORT BEACH STANDARDS.
 7. CONCT. CONC. SIDEWALK PER CITY OF NEWPORT BEACH STANDARDS.
 8. EXIST. REMOVE GLAZING, PROTECT IN PLACE.
 9. CONCT. 1/2" x 4" OUCHER BAR.
 10. CONCT. 1/2" PVC. SICK. OR APPROVED EQUIV.
 11. CONCT. FINISH TO MATCH PER CITY OF NEWPORT BEACH STANDARDS.
 12. EXIST. WALL TO BE REMOVED.
 13. REMOVE EXIST. DRIVEWAY.

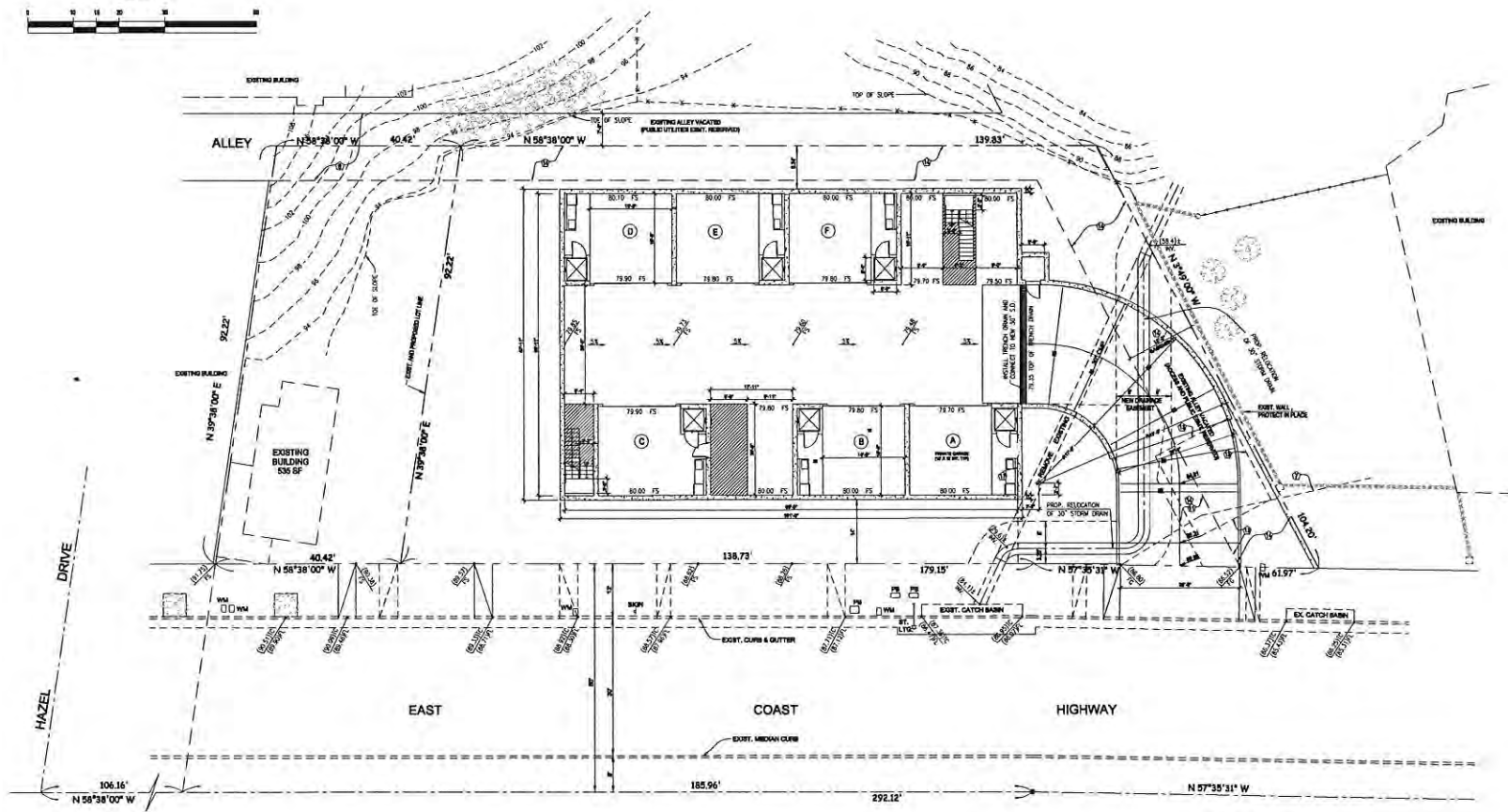
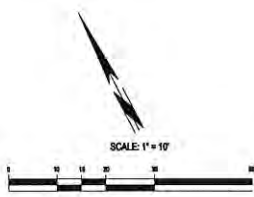
- 17- **DEED FOR THE RYAN COMPANY FOR THE PURPOSES OF PIPELINE AND INCIDENTAL PURPOSES FOR LOT 3A, RECORDED IN BOOK 93 PAGE 23 ON MAY 23, 1987 OF OFFICIAL RECORDS.**
- 18- **DEED FROM THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PUBLIC ALLEY AND INCIDENTAL PURPOSES FOR LOT 3B, RECORDED IN BOOK 1032 PAGE 23 ON SEPTEMBER 14, 1982 OF OFFICIAL RECORDS.**
- 19- **GRANT AND CREED SHERMAN TRUSTS TO AUTO 5% OF CORONA DEL MAR INC. AS INSTRUMENT NO. 30-24, ON JANUARY 17, 1987 OF OFFICIAL RECORDS.**
- 20- **RESOLUTION NO. 30-24, EXECUTED BY CITY OF NEWPORT BEACH AS INSTRUMENT 30-24, ON SEPTEMBER 15, 1987 OF OFFICIAL RECORDS - FOR THE VACATION OF ALLEYS ON LOTS 3A, 3B, 37 AND 38.**

OWNER:
MR. MAGDI HANNA
3345 NEWPORT BLVD., #203
NEWPORT BEACH, CA. 92663
(540) 723-3008

JRV ENGINEERING, INC.
32288 LA CROIXA DRIVE
LAGUNA HILLS, CA 92653
(714) 734-6728

JOSITO R. VILLAR, P.C.E. 2001

DATE: JUL 14	SCALE: 1"=10'	DRAWING NUMBER: G-2
--------------	---------------	------------------------

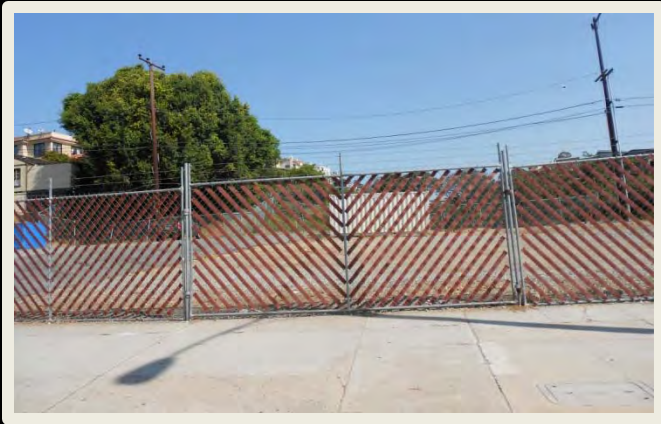


- ① SUBMITTAL FOR THE ENGINEER FOR THE PURPOSES OF PRELIMINARY AND INTERIM, PURPOSES FOR LOT 16, RECORDED IN BOOK 88, PAGE 88, ON MAY 21, 1997 OF OFFICIAL RECORDS.
- ② SUBMITTAL FOR THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PRELIMINARY AND INTERIM, PURPOSES FOR LOT 16, RECORDED IN BOOK 88, PAGE 88, ON MAY 21, 1997 OF OFFICIAL RECORDS.
- ③ SUBMITTAL FOR THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PRELIMINARY AND INTERIM, PURPOSES FOR LOT 16, RECORDED IN BOOK 88, PAGE 88, ON MAY 21, 1997 OF OFFICIAL RECORDS.
- ④ SUBMITTAL FOR THE CITY OF NEWPORT BEACH FOR THE PURPOSES OF PRELIMINARY AND INTERIM, PURPOSES FOR LOT 16, RECORDED IN BOOK 88, PAGE 88, ON MAY 21, 1997 OF OFFICIAL RECORDS.

OWNER:		JV ENGINEERING, INC.		TENTATIVE TRACT MAP NO. 17386	
MR. MAGDI HANNA		3288 LA CADENA DRIVE		SITE ADDRESS: 300 E. COAST HIGHWAY	
3348 NEWPORT BLVD., #200		NEWPORT BEACH, CA 92663		CORONA DEL MAR, CA 92625	
(949) 723-2000		PRELIMINARY		GRADING & DRAINAGE PLAN	
DATE: JANUARY 11, 1997		SCALE: 1" = 10'		SHEET 1 OF 1	

ADDITIONAL
MATERIALS
RECEIVED

Plaza Corona del Mar



Planning Commission, Public Hearing
3900 and 3928 East Coast Highway
January 3, 2013

STAFF PRESENTATION
PA2010-061



Aerial Photograph



Project Overview



■ Mixed-Use Development

- 6 detached dwelling above a subterranean parking structure
- 2,160 SF office addition above existing 535 SF specialty food use
- 10-space shared parking lot

■ Requested Applications (PA2010-061)

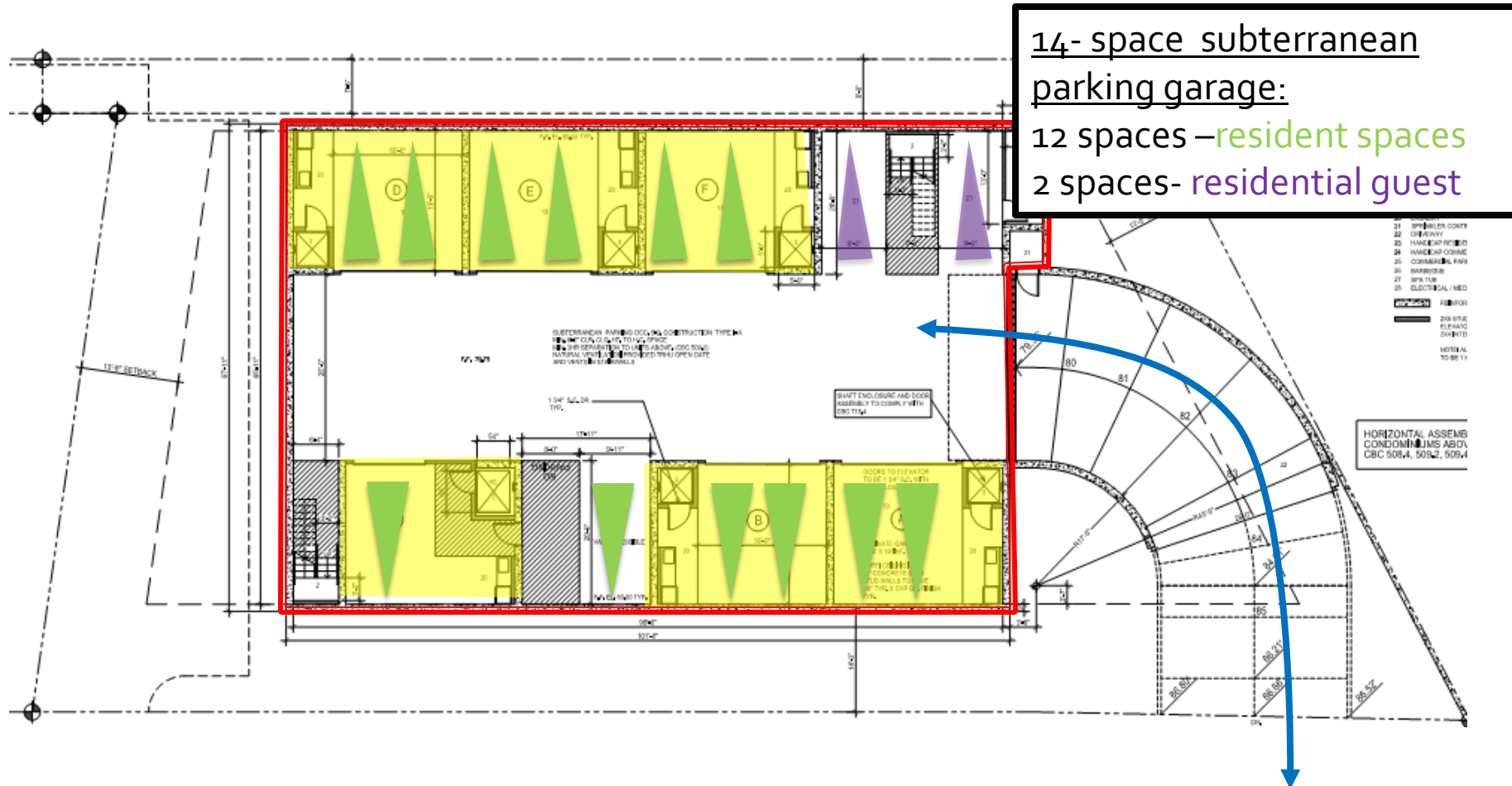
- Site Development Review No. SD2012-001
- Conditional Use Permit No. UP2012-011
- Modification Permit No. MD2012-011
- Tentative Tract Map No. NT2012-001
- Variance No. VA2012-007

Continued from Dec. 6th

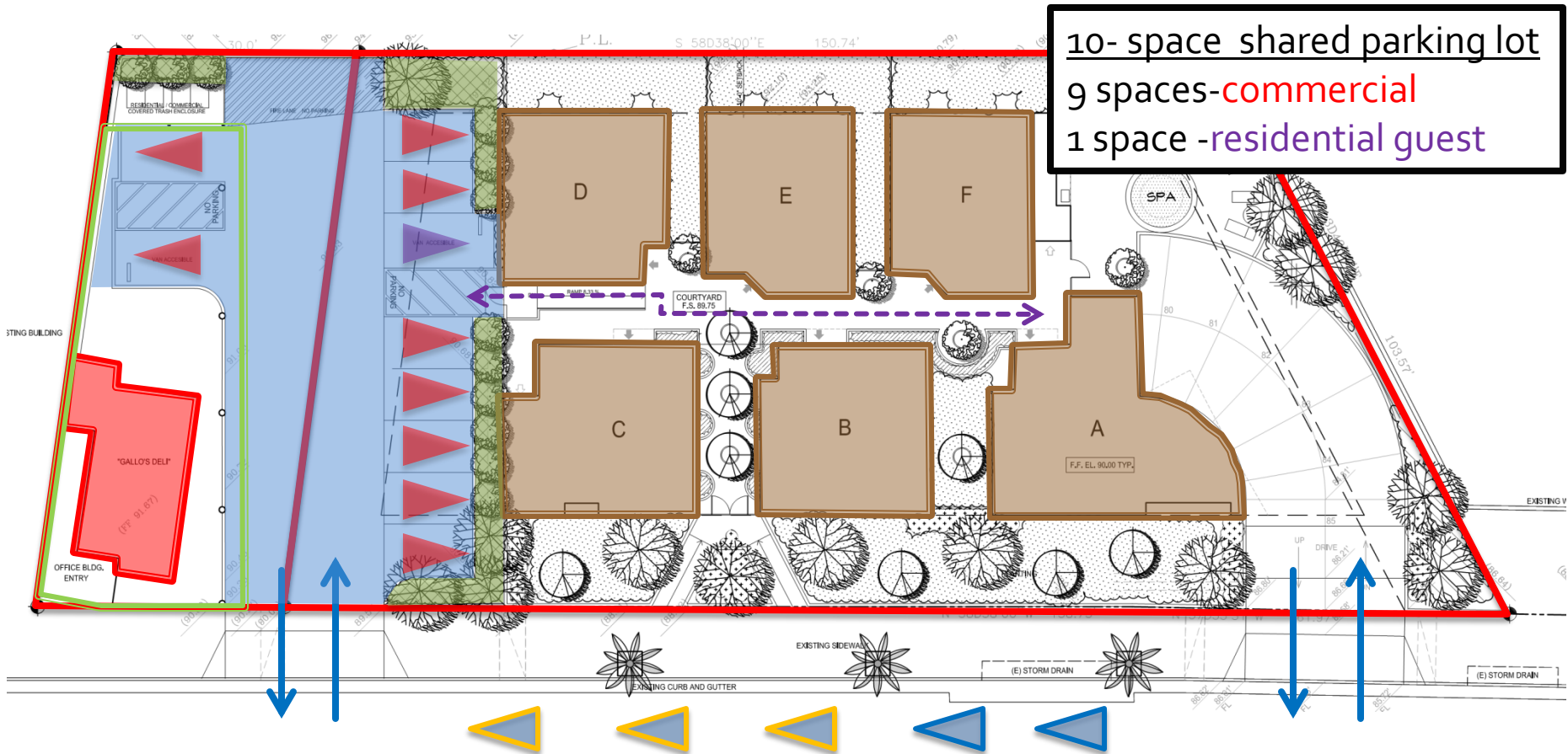


- Concerns with shared use of parking lot
 - Possibility of waiving 1 residential guest space
- Requested additional details regarding architectural style and materials
- Clarification regarding the retention of the existing Gallo's structure

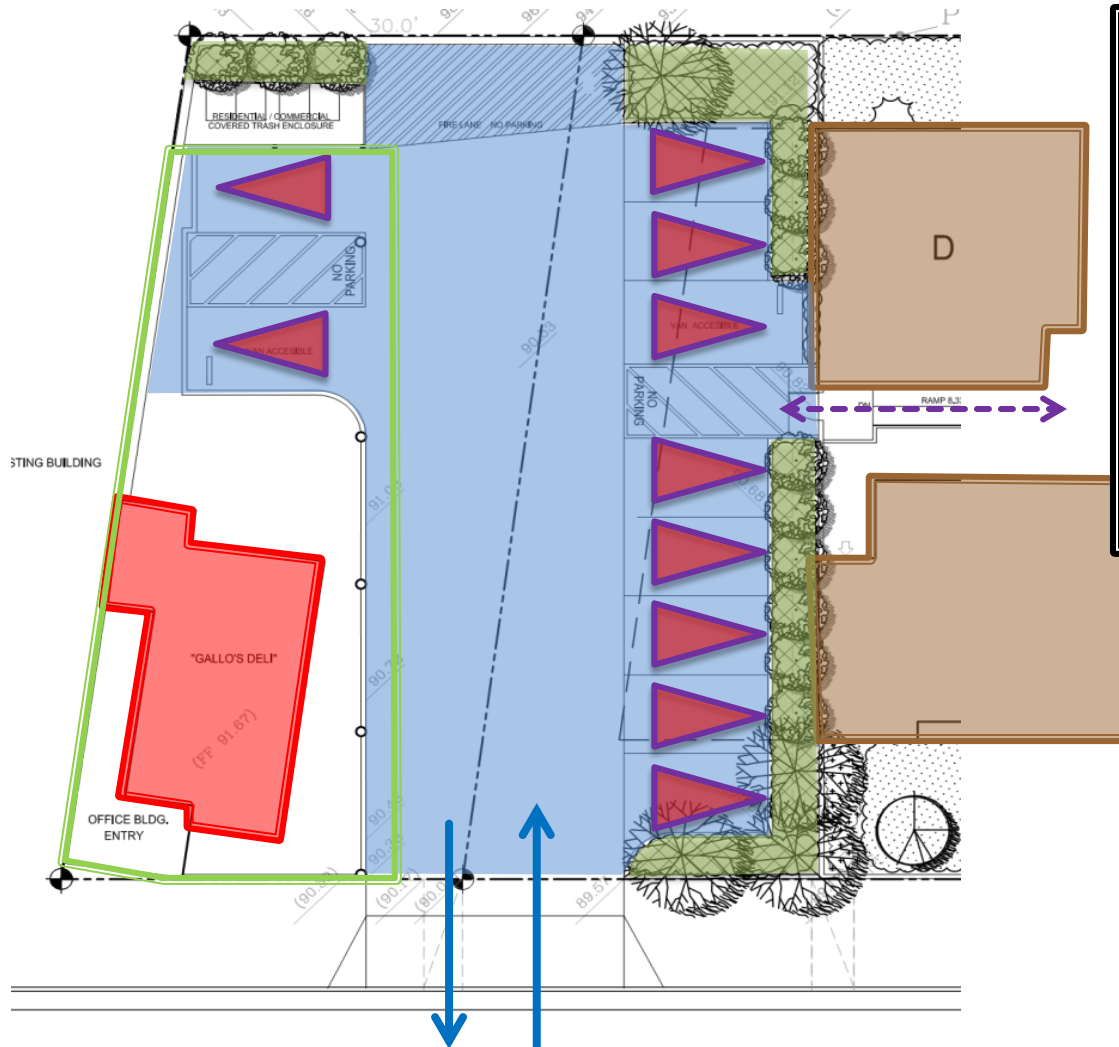
Proposed Parking Configuration Residential Basement



Proposed Parking Configuration Ground-Level Parking Lot



Originally Proposed Unrestricted Shared Parking



10 space shared parking lot

Meets parking requirements

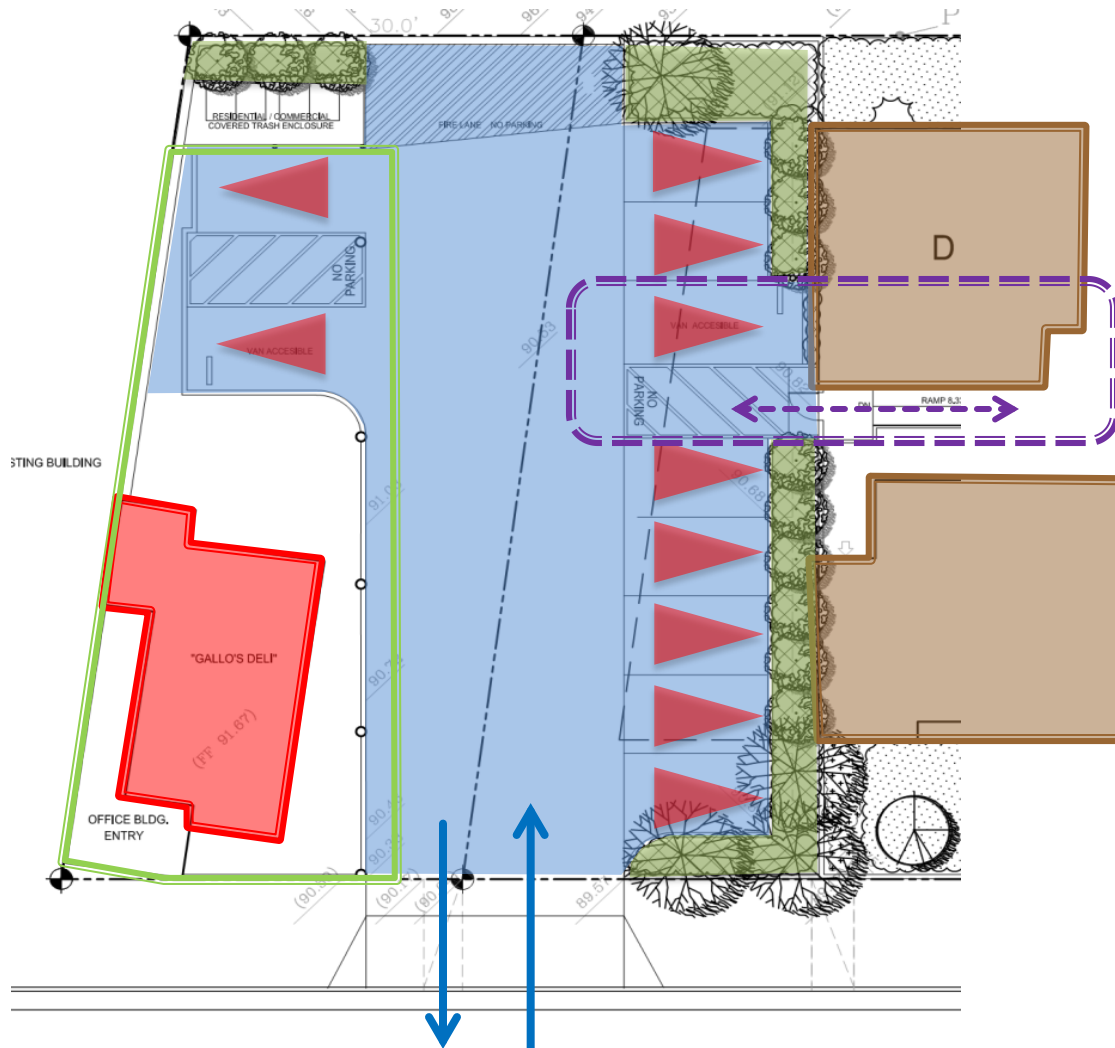
- 9 spaces commercial
- 1 space residential guest

Users unrestricted

Issue:

Potential parking conflicts during day

PC Recommendation Commercial Parking Only



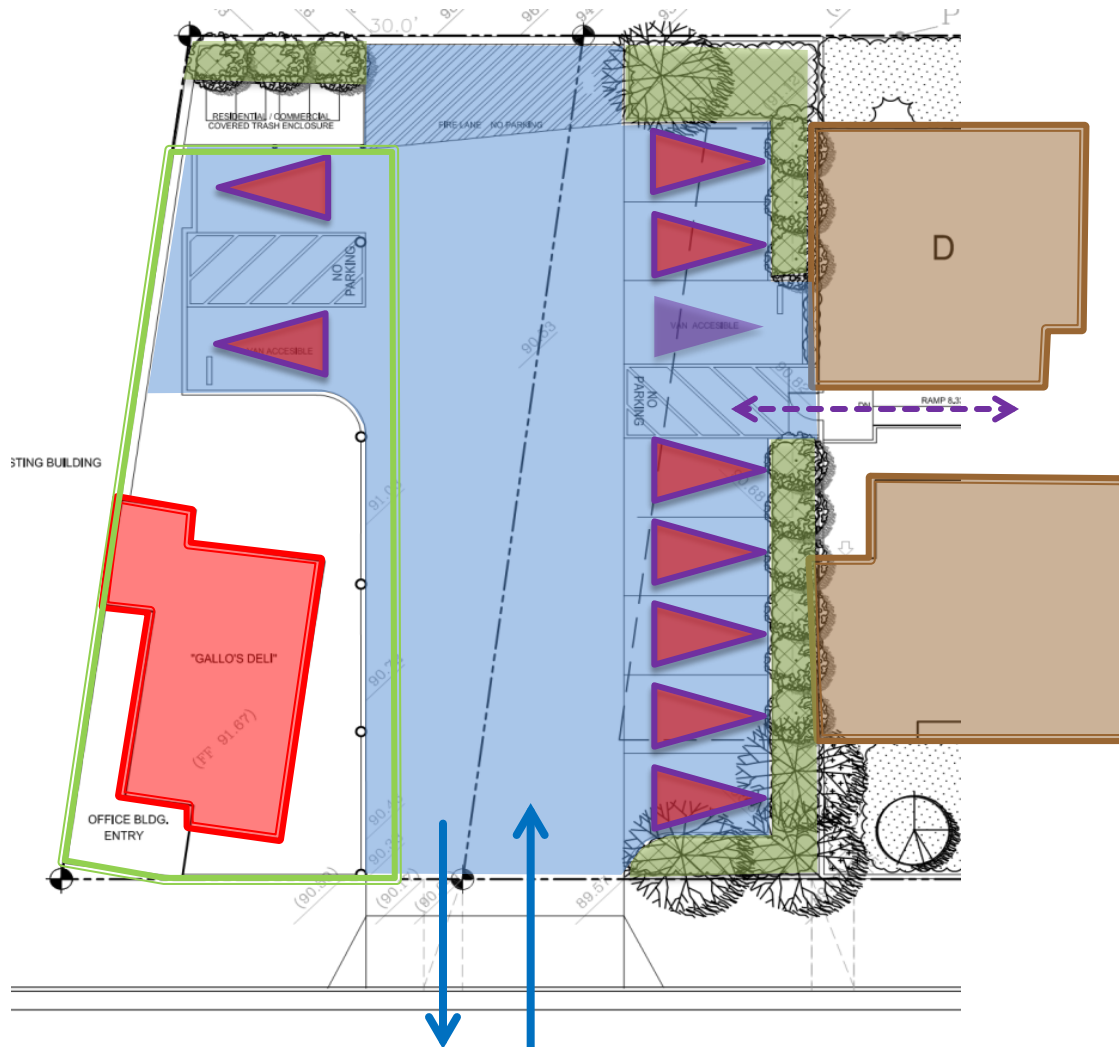
10 space commercial parking lot

- Requires waiver of 1 residential guest space
- Restricted for commercial users during regular business hours

Issues:

- Building Code requires van accessible residential guest space
- Cannot be waived as designed
- Relocation into basement would require significant redesign and addition of public elevator

Revised Staff Recommendation Restricted Share Use



10 space shared parking lot

- 1 van accessible space – restricted at all times for residential use
- 9 spaces- restricted for commercial users during regular business hours (8am to 6pm)
- No user restrictions 6pm to 8 am, except no commercial overnight parking

Architectural Design Northwest Perspective



Architectural Design Northeast Perspective



Retention of Gallo's During Construction

- Not needed to retain vested land use rights of Specialty Food Permit
- Intent is to maintain on-going client base
- Determined to be structurally feasible

Retention of Gallo's





For more information contact:

Jaime Murillo
949-644-3209
jmurillo@newportbeachca.gov
www.newportbeachca.gov

Makana Nova
949-644-3249
mnova@newportbeachca.gov
www.newportbeachca.gov

Item No. 4a: Additional Mateials Received
Planning Commission January 3, 2013
Plaza Corona del Mar (PA2010-061)



Item No. 4a: Additional Materials Received
Planning Commission January 3, 2013
Plaza Corona del Mar (PA2010-061)



The staff report is unclear as to what “*negative impacts to the abutting property*” are avoid by topping the excess-height retaining wall “*with a 42-inch-high glass guardrail.*” I am guessing the planner has safety impacts in mind?

Page 17: In Section 1, statement 5 should say "2013" rather than "2012."

Page 18: The opening paragraph of Section 3 cites Municipal Code Section 20.28.040.I, whose title is “**Adjustment of development area boundary.**” I find nothing in the Resolution that clearly defines what adjustment to the boundary is being approved or where the new boundary will be.

The illustration on page 30 of the agenda packet shows what it claims to be the current (Area “B”)/(Area “C”) boundary (apparently following the 68.09 foot height contour), and a somewhat arbitrary heavy line (having nothing to do with elevation contours) labeled “Predominant Line of Existing Development.” I assume the intent of the Resolution is to move the “B/C” boundary for this one lot to that line, but I don’t find that clearly stated.

In Fact B-1, the word "that" seems unwanted, making the sentence ungrammatical, at least to me. I would suggest deleting it.

Page 19: Regarding Fact C-2, see previous comments. The proposed line is consistent with the existing line *only* when viewed from above. Also, *even* when viewed from above, the adjacent lot to the south (also in the ravine) does **not** appear to have developed out horizontally to this limit.

Page 19: In Fact I-1, the use of the word “*unique*” is confusing, making it sound like many (or all?) Irvine Terrace bluff-top properties have the same problem. I think you mean the topography of the project site is unique, in which case “*to other bluff properties in Irvine Terrace*” should be deleted. Alternatively you could delete “*unique*” and say the topography of the project site is *different from* (most) other bluff-top properties along Dolphin Terrace.

Page 22: In Fact K-2, the alternative would seem to be fill the area to the 13 foot below curb level elevation. I assume that would involve building a retaining wall parallel to Bayside Drive, would be detrimental to the stability of the existing slope, and would probably also require a modification permit.

Item No. 4 Plaza Corona del Mar (PA2010-061)

The following comments refer to the January 3, 2013 Staff Report, and the page references are to the handwritten numbers (or, equivalently, the pages in the 124 page PDF)

Although not relevant to the Commission’s current decisions, one of my main concerns with this project, to echo those expressed by Dan Purcell in the minutes of the December 6, 2012 hearing (page 90), is the vacation, without any compensation to the City, of the public alley easement at the rear of the Gallo’s Deli property. I have not researched the vacation in the 1990’s of the much larger segment that wrapped around the rear of the entire plaza, and

apparently connected to PCH, but the vacation of this last piece was presented to the City Council as Agenda Item 23 at its November 27, 2012 meeting. It was presented in the abstract as a useless piece of steeply sloping property that the adjacent private landowners could maintain better than the City, and the Public Works Department and Council seemed clueless that there were any imminent plans for its development. It was also asserted that, although the private owners would acquire additional development rights, all that was being vacated was a public transportation easement, and that the City had never owned the land "in fee." Yet it was shown on the City's online maps in the same manner as any other public streets and there was no indication the private property lines extended into it. The March 18, 2010 map on page 110 of the present staff report also suggests the unvacated alley segment behind Gallo's was never part of the private properties.

It was, then, quite surprising to see notices posted a couple of days later of the December 6, 2012 Planning Commission hearing on development of "Plaza Corona del Mar," and even more surprising to find in the agenda packet the Tentative Tract Map (page 111 of the present staff report) dated October 2012 (prior to any Council decision) showing the vacated City property as an accomplished fact integral to the development plans. Even if the City's only interest in the alley was, as the Public Works Director stated, an easement, its vacation clearly had value to the developer, and its transfer without compensation seems to me an improper gift of public funds.

At the very least, I would have thought the City Council should have been made fully aware of the proposed development and shown the plans and Tentative Tract Map before making its decision about the fate of the alley.

Page 1: The captioning information at the top of the first page of the staff report refers to a "Variance No. VA2012-002," as does the Resolution. Yet, as it did on December 6, 2012, the *Recommended Action* in the agenda, and on the 4th line from the bottom of page 1, refer to "Variance No. VA2012-007."

Although the second paragraph of the present report indicates it supplements the prior report, for those who have not followed this application closely, and even for those who have, it would seem helpful to provide a reference to where the previous report can be viewed, since much background information about what is being proposed for approval at this meeting is not included here, including the explanation of the revised Tentative Tract Map supplied separately, as a correction, after the previous report was issued (see comment regarding page 44, Condition 14, below).

Page 3: Alternative 3 seems to be describing three guest spaces in the underground garage (one van accessible *plus* two standard). Isn't that one more than the total of two the staff report says is required by the Zoning Code?

Page 4: Although it does not seem a condition of approval, the staff encouragement of painting each unit a different color would seem to me to produce a development with an excessively busy look. I would think a couple of colors, alternated, would be more pleasing.

Page 5: Regarding the possibility of redesigning/rebuilding the Gallo's Deli use, the first two paragraphs indicate that "*preservation of the existing structure is not required*" to maintain the rights enjoyed under Specialty Food Permit No. 38, and that "*staff is not opposed to the construction of an entirely new structure.*" However it is not clear either resolution is intended to leave that option open. Condition of Approval 1 (handwritten pages 35 and 71) says the development has to "*be in substantial conformance*" with the submitted plans, which are presumably illustrating the proposed "*steel frame superstructure with independent footings, columns and beams from the existing building.*"

Page 26: With regard to the need to grant a variance from the normal 20 foot setback, the Facts presented in support of Findings B and C really seem only to support Finding D (that approving the variance would not be a grant of a special privilege inconsistent with other properties in the vicinity). Some of the properties cited for comparison do not appear to have *identical* zoning classifications (a requirement of Finding B), nor, without knowing how the other properties obtained their more permissive standards, does it seem convincing that approval of the variance is necessary to preserve an existing property *right* (Finding C). The City would seem to lose its ability to impose zoning standards on particular properties if they can be overridden simply because different standards are observed elsewhere.

Page 27: [typo in last full line] "*the commercial lots to the west which ~~se~~ do not have front setback requirements.*"

Page 30: [Finding C] As previously commented, beyond discharge of fill (dirt?), it seems possible the project could add undesired water/pollutant drainage into Buck Gully (cf. item 4 in the public comment letter on page 99). Conditions of approval 22, 24, 26 and 27 on page 37 (and #56 on page 41) appear intended to minimize some of that possibility, but it remains unclear how the development may alter the impact of rainwater runoff into the gully.

Page 33: [Fact J-2] "*Chapter 14.24*" appears, without saying so, to be a reference to the Newport Beach Municipal Code.

Page 36: Is the Condition 17 restriction of daytime parking to "*commercial tenants*" intended to prohibit Gallo's customers from using the 10 off-street spaces? That is, was the previous "*and customers*" language in Condition 10 intentionally deleted?

Page 37: Very minor typo in Condition 28: "*the applicant shall prepare a photometric study.*"

Page 39: Condition 39 appears to be a standard one, but I'm not entirely sure what the second sentence is intended to do. First, is it supposed to read "*Issues with regard to...*" rather than "*The issues with regard to ...*"? Second, does it mean the establishment is subject to AQMD regulations? Or that if complaints are received, the operator is supposed to refer them to the AQMD?

As a general comment, since the conditions of approval refer to five discretionary grants (UP2012-011, MD2012-011, SD2012-001, NT2012-001 and VA2012-002) affecting up to two properties and an existing use, it is frequently difficult to tell what conditions are intended to apply to what actions. For example, are Conditions 39 and 40 intended to apply only to the Deli

use? Or to the entire commercial use? Or to the entire development, including the residential kitchens?

Regarding building across the existing property lines (in Condition 41), I am guessing that with regard to the retaining wall extending into what was previously an undeveloped City alley, the recording of the tract map requires completion of the vacation and adjustment of the property lines in that area, if any is required.

Page 40: [Condition 49] The last sentence is probably intended to read "~~As per~~ Guideline G.02. *tree species are not allowed...*"

Page 43: It is unclear why the Tract Map Conditions are numbered separately from the others. In the draft resolution presented at the December 6, 2012 meeting, as in the previous sections, they simply continued the sequence.

Page 44: I have not seen an explanation of the significance of the existing public easements referred to in Conditions 10 and 11, at the east edge of the property, and what would be gained/lost by vacating and/or realigning them.

In Condition 14, the reference to the error regarding the 82-square-foot notched area on the Tract Map no longer seems relevant since the map provided on page 111 of the current agenda packet no longer shows it.

A final concern is whether proper ventilation of the underground parking garage is adequately addressed.

Note regarding pages 45ff: most of the comments regarding pages 10ff, above, apply equally to the Alternative Resolution starting on page 47.

Page 56: (Fact B-3) Although the parking lot crosses the proposed property lines, the Tentative Tract Map on page 111 suggests the stalls are entirely on the residential Lot 1. To those, like myself, unfamiliar with the rules governing Tract Maps, if the parking is to be used exclusively by the commercial uses, one wonders why the two lots are not being defined so that the entire parking area, including the stalls, is assigned to the commercial Lot 2. Then the only shared use would be the residents' right to use the shared trash enclosure on the commercial lot – which raises the question why the residential trash responsibilities aren't on the residential lot to start with.

Page 72: Condition 18, calling for the development of an agreement between the commercial and residential owners for use of the ground level parking lot seems incompatible with Condition 14, which restricts use of that lot to "*commercial tenants and customers only.*"

Page 104: Staff appears to disagree with the architect's belief that the project is in the Coastal Zone and will require Coastal Commission approval. Considering its proximity to Buck Gully, my guess is the property may have been improperly excluded from the Coastal Zone when the maps were first drawn (or Buck Gully contained less of a stream, then).